

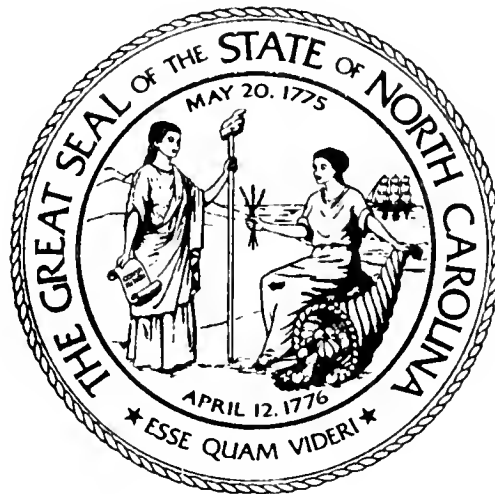




**LEGISLATIVE  
RESEARCH COMMISSION**

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**HISTORIC PRESERVATION**



**REPORT TO THE  
1989 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1989 SESSION**

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
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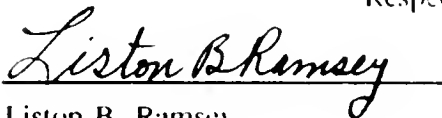


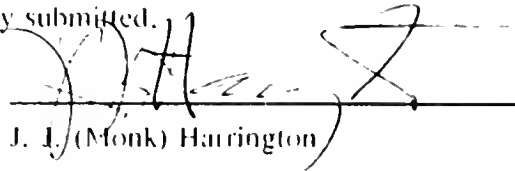
December 14, 1988

TO THE MEMBERS OF THE 1989 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final report on historic preservation. The report was prepared by the Legislative Research Commission's Committee on Historic Preservation pursuant to Section 2.1(19) of Chapter 873 of the 1987 Session Laws (H.J.R. 1257; S.J.R. 874).

Respectfully submitted,

  
Liston B. Ramsey

  
J. I. (Monk) Harrington

Cochairmen

Legislative Research Commission





## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1987 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Co-chairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-chairs, one from each house of the General Assembly, were designated from each committee.

The study of historic preservation was authorized by Section 2.1(19) of Chapter 873 of the 1987 Session Laws (1987 Session). That act states that the Commission may refer to H.J.R. 1257; S.J.R. 874, in determining the scope of its study. The resolutions state, in pertinent part, that historic preservation issues to be studied include the need to modernize the State and local laws affecting historic preservation and the need to combine historic preservation and economic concerns, including those of travel and tourism, to the betterment of the whole State. The relevant portions of Chapter 873 and of H.J.R.

1257; S.J.R. 874, are included in Appendix A. The Legislative Research Commission grouped this study in its Buildings and Disadvantaged Businesses area under the direction of Representative John T. Church. The Committee was chaired by Senator Russell Walker and Representative John C. Hasty. The full membership of the Committee is listed in Appendix B. of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

## COMMITTEE BACKGROUND

Existing North Carolina law for historic preservation has been largely written and adopted between 1973 and 1979. This body of legislation, excellently crafted under the leadership of Robert E. Stipe, is still functional for the 1980's and has served the State and cause of historic preservation well. But some changes are necessary to this body of law because the times have changed, and several changes require addressing.

- (1) Federal preservation programs and funding have declined in relative importance compared to that of State and local governments. Since 1980, federal funding to North Carolina declined from \$1.6 million to \$473,000 in 1987. Federal acquisition and development grants ceased in 1981, the national rate of annual National Register listings dropped by half between 1983 and 1987, and applications nationally for federal rehabilitation tax certifications declined 47% in the past year because of the reduced incentives of the Tax Reform Act of 1986. Administratively, federal legislative changes in 1980 further shifted the preservation burden and impetus towards State and local government through the certified local government program. The federal preservation preserve will not disappear altogether. It will continue as a national unifying force with national standards and programs. It just will not highlight State and local programs as much as in the past. Accordingly, the greater burden of preservation program funding, organizational structure, and support now falls on State and local government. Our State legislation, written

during a period of federal dominance needs revision to reflect the greater importance, growth and self sufficiency of North Carolina State and local programs.

- (2) With the growth and maturation of State programs, the role of the State Historic Preservation Office (SHPO) has assumed greater proportions. Not even mentioned in the National Historic Preservation Act of 1966 and obliquely mentioned in the State law, written in 1973 by the now obsolete term "State liaison officer," the position and responsibilities of the SHPO as the implementor of the national program on the State level were finally written into the National Historic Preservation Act Amendments of 1980. However, the 1973 reference to the State liaison officer in G.S. 121.8, restricted to the nomination of properties to the National Register, has remained unchanged.

As the state program has expanded its range of services the SHPO has become central to the state's own non-federal preservation programs as well. This is natural since the same agency and staff undertake both federal and state preservation programs and these are to a large degree intertwined. The role of the SHPO is important to the continued success of the state preservation program. It needs to be recognized and described in State law.

- (3) At the same time that national leadership has waned, greater public acceptance and institutionalization of historic preservation has occurred on the state and local level. In addition to fostering a sense of history, historic preservation has gained respectability in the public arena as a means of enhancing the quality of life and economic strength of the state and its communities. the number of local historic district and properties

commissions has proliferated at the combined rate of about 3-4 per year for a total of 58 as of September 30, 1987. Certified local governments in North Carolina now stand at 18, up from 10 in 1986.

Concordantly, a six year decrease in state preservation office staff, caused largely by federal funding cuts, was turned around in 1987 by state legislation which expanded the regionalization of the technical services of the Archaeology and Historic Preservation Section. And more significantly, the General Assembly of North Carolina in its 1987 Session, authorized the Legislative Research Commission to study historic preservation, including its economic impact, the need to update state and local preservation laws, and the need to develop more effective private sector economic incentives. In a word, it now appears politically possible to secure and strengthen state and local preservation programs and to more effectively encourage private sector participation in preserving North Carolina's cultural heritage.



## COMMITTEE PROCEEDINGS

The Legislative Research Commission Study Committee on Historic Preservation met **6** times, on November 16, 1987, on January 4, 1988, on March 14, 1988, on April 25, 1988, on October 27, 1988, and on November 16, 1988. The March 14, 1988 meeting was a public hearing held in New Bern. The April 25, 1988 meeting was a public hearing, held in Asheville. The minutes of all the meetings are included in the official Committee records, on file in the Legislative Library.

The Committee early identified a number of issues to be addressed, all of which would be likely to require legislation of some sort. A list of all people who attended Committee meetings and a list of all who testified before the Committee are attached as Appendix C of this report. Copies of all testimony are included in the official Committee records, on file in the Legislative Library. Most of these issues centered on finding ways to hone and polish existing historic preservation laws to make them more effective in effecting their purpose and to work with existing State, local, and private agencies and individuals to find ways to bring those involved in historic preservation endeavors and those involved in travel and tourism and in State and local economic development endeavors together in identifying innovative ways to work together. It was clear to the Committee from the beginning of the onset of its study that tourism and historic preservation were affecting each other greatly and, that with planned cooperation, both the economic and cultural growth of the State and its localities would be greatly benefitted. The Committee discovered that it would be feasible to rework the historic preservation laws both to bring them up to date and to build in mechanisms of coordination and cooperation among all the State agencies that have an impact on historic

preservation, including those primarily concerned with tourism and economic growth, and among local governments and agencies, and private agencies and individuals.

The Committee also discovered a need to rework local enabling legislation to make it easier to work with, more efficient, and more meaningfully enforceable. But, it also decided that this increased enforceability should not be effected to the detriment of the private property-owner. Rather, that owner needed to be provided further economic incentives to work with local historic preservation attempts. The Committee also decided that the whole area of neighborhood preservation needed to be addressed in specific legislation that would encourage the preservation of neighborhoods without forcing them to seek historic district status to be protected at all. Again, the Committee decided that this action would encourage the cooperation of private landowners, not force them, to aid in preserving neighborhoods that are not truly "Historic" but that are worth preserving. Healthy, stable neighborhoods are economically as well as socially worth encouraging.

The Committee was encouraged by the Mainstreet Program. This program is aimed at the economic revitalization of small cities' and towns' downtowns. But, as was recognized earlier, economic revitalization is most effective when historic preservation interests are also worked toward. The Mainstreet Program is a good example of the type program that needs not only to be encouraged by preservationists but also to be coordinated with in historic preservation planning. The Committee heard testimony that the Mainstreet program could be even more effective if more design staff could be made available to more small cities, especially in rural areas.

The Committee went to the east, New Bern, and to the west, Asheville, to hear directly from the individuals most affected by historic preservation. These public hearings provided some of the most rewarding aspects of its study. All the issues it had decided were worthy of study were addressed spontaneously and most effectively by private individuals and agencies and by local governmental officials. Its major concern, that



preservation be examined in its economic growth aspects as well as in its more traditional, separate aspects, was underscored by excellent testimony concerning the vital role local businesses were playing in preserving and restoring local properties and district, to the benefit of the businesses and the local economy as well as to the more traditional preservation interests.



## FINDINGS AND RECOMMENDATIONS

**RECOMMENDATION 1. THE COMMITTEE RECOMMENDS THAT THE LAW REGARDING HISTORIC PRESERVATION BE AMENDED TO INCLUDE SPECIFIC PROVISIONS THAT WILL NOT ONLY STRENGTHEN THE PROTECTION OFFERED BY THE STATE OF HISTORIC PROPERTIES BUT ALSO STRENGTHEN THE VITAL COOPERATIVE ROLES PLAYED BY TOURISM AND HISTORIC PRESERVATION IN BENEFITTING THE ECONOMY OF THE STATE. THE COMMITTEE RECOMMENDS THAT THESE SPECIFIC PROVISIONS INCLUDE CREATION OF THE NORTH CAROLINA ADVISORY COUNCIL ON HISTORIC PRESERVATION, A MANDATE THAT ALL AGENCIES AFFECTING HISTORIC PROPERTIES COORDINATE THEIR EFFORTS AND COOPERATE WITH THE COUNCIL, AND A MANDATE THAT ALL AGENCIES AFFECTING HISTORIC PRESERVATION ESTABLISH PRESERVATION OFFICERS. (See Legislative proposal 1.)**

The Committee finds that the creation of an Advisory Council that works with all agencies and entities affecting historic preservation is the most efficient way to make more effective the historic preservation protection offered by the State and to ensure that all involved cooperate with one another. The Committee finds that such cooperation is essential in order to bring historic preservation and the economic well being of the State together into a joint, cooperative concern. The Committee finds that tourism and historic preservation, in particular, are mutually beneficial, that the one can no longer be addressed without the other. The Committee further finds that all affected agencies, in addition to cooperating and consulting with the Advisory Council, should be required to

put preservation officers in place in each agency, so that preservation would always be considered in concert with the agency's primary responsibility, and so that allied but different interests from preservation, such as road construction will always be considered, and not overlooked by preservationists.

**RECOMMENDATION 2. THE COMMITTEE RECOMMENDS THE ESTABLISHMENT OF A NORTH CAROLINA REGISTER OF HISTORIC PLACES, TO ENSURE STATE PROTECTION OF HISTORIC PROPERTIES THAT ARE VALUABLE TO THE PEOPLE OF THE STATE EVEN THOUGH THEY MAY NOT BE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES AND, THUS, NOT BE PROTECTED FROM HARMFUL STATE UNDERTAKINGS. (See Legislative Proposal II.)**

Along with the findings expressed above, the Committee finds that recognition needs to be given to the increased role of the State in historic preservation, and to the increased local, regional, and Statewide concerns to provide protection similar to that provided for properties on or eligible for the national Register for properties that are not on the National Register but that are nonetheless of vital aesthetic, historic, and economic value to localities, regions, or the State. The Committee finds that the establishment of A North Carolina Register of Historic Properties is the best mechanism both to recognize these properties and to offer them protection. The Committee finds that, in the future, when this Register is established, it may also offer a rational and consistent vehicle for State legislators and policy makers in determining how to appropriate funds to individual properties that are of value to the locality, the region, or the State and are in need of preservation or restoration. The Committee finds that the establishment of a State register will assure that the unifying structure of North Carolina's preservation program is State-based and protected against federal policy swings or repeals.

**RECOMMENDATION 3. THE COMMITTEE RECOMMENDS THAT LOCAL ENABLING LEGISLATION BE REVISED AND STRENGTHEN TO ENSURE THAT HISTORIC PROPERTIES OF LOCAL AS WELL AS OF STATE SIGNIFICANCE BE PRESERVED. THE COMMITTEE RECOMMENDS THAT THE REVISION OF THE LOCAL LEGISLATION INCLUDE A REWRITING OF THE TWO STATUTES REGARDING HISTORIC DISTRICTS AND HISTORIC PROPERTIES TO CREATE ONE SINGLE BODY OF LAW DEALING WITH "LOCAL DISTRICTS AND LANDMARKS," THUS AVOIDING PAST CONFUSION BETWEEN HISTORIC PROPERTIES LAW AND HISTORIC DISTRICTS LAW, AND THE EXTENSION OF ALLOWABLE DEMOLITION DELAY, TO PERMIT MORE TIME TO ALLOW INTERESTED INDIVIDUALS AND PRESERVATION GROUPS TO WORK WITH THE PROPERTY OWNER TO SAVE THE PROPERTY FROM DEMOLITION, IF AT ALL POSSIBLE. (See Legislative Proposal III. and Legislative Proposal IV.)**

The Committee finds that local enabling legislation is currently split between local historic districts law and local historic properties law in the statutes. that the distinctions are confusing and that it is no longer necessary to have two separate bodies of law deal with local enabling legislation. The Committee finds that a rewriting of these two bodies of law to combine them into one, dealing with local districts and landmarks, will remove the unnecessary confusion for local governments and for private landowners and agencies attempting to preserve and restore local properties to the benefit of their community and to the inevitable benefit of the economic and social health of the State. The Committee also finds, that along with the combining and simplifying of the two bodies of local enabling legislation, the time allowed for demolition delay must be increased, from half to a full year, in order to permit an adequate amount of time for

local preservationists to work with the property owners to resolve their conflicting interests and to preserve more properties.

**RECOMMENDATION 4. THE COMMITTEE RECOMMENDS THAT THE STATE INCREASE THE FINANCIAL INCENTIVES IT MAKES AVAILABLE TO INDIVIDUALS WORKING TO PRESERVE AND RESTORE HISTORIC PROPERTIES, AS THE STATE HAS A VITAL AND GROWING INTEREST IN THE POSITIVE ECONOMIC AND SOCIAL IMPACT THAT RESTORED AND PRESERVED HISTORIC PROPERTIES ARE PROVIDING TO COMMUNITIES, AND TO THE STATE IN TERMS OF INCREASED TOURISM APPEAL. THE COMMITTEE RECOMMENDS THAT THESE FINANCIAL INCENTIVES INCLUDE A REVISED PROPERTY TAX LAW THAT, BY SPECIFYING PROPERTY OWNER'S RESPONSIBILITIES, SHOULD ENCOURAGE LOCAL GOVERNMENTS TO GRANT COMPLYING OWNERS FAVORABLE TAX TREATMENT AND A STATE INCOME TAX CREDIT FOR OWNERS WHO PRESERVE OR RESTORE HISTORIC PROPERTIES THAT ARE NOT INCOME PRODUCING AS WELL AS FOR THOSE THAT ARE. (See Legislative Proposals V and VI.)**

The Committee finds that, as it recommends strengthening the laws protecting historic properties, it also must recommend providing financial incentives to private property owners to preserve and renovate their properties. Currently, few municipalities can afford to adjust the property tax base of very many properties so the privileged status of "historic property" is awarded to few properties. The Committee finds that, if this status is tied to more strict conforming standards, the municipalities, faced with fewer but more meaningful applications, may be more willing to grant this status to more property owners. The Committee also finds that private property owners who are living in the properties they are preserving or renovating have no financial incentives currently

provided. The Committee finds that a State income tax credit should be granted to all owners, regardless of whether they have renovated income-producing or non-income producing property. Federal tax credits are only available for those owners who preserve and renovate income producing properties.

**RECOMMENDATION 5. THE COMMITTEE RECOMMENDS THAT LEGISLATION BE ESTABLISHED THAT WOULD ENABLE LOCAL GOVERNMENTS TO CREATE NEIGHBORHOOD PROTECTION DISTRICTS TO ENCOURAGE, NOT MANDATE, THE PROTECTION OF NEIGHBORHOODS THAT ARE NOT TRULY HISTORIC, BUT THAT ARE WORTHY OF PROTECTION FROM UNNECESSARY OR PRECIPITOUS CHANGE OR DESTRUCTION. (See Legislative Proposal VII.)**

The Committee finds that there is currently no law that addresses appropriately the need to recognize and encourage the preservation and stabilization of neighborhoods that are not truly historic. The Committee finds that such neighborhoods are presently forced to lobby to get classed as historic districts and that this inappropriate classifications brings property owners under restrictions that are unfair because they are inappropriate. The Committee finds that legislation acknowledging and encouraging neighborhood awareness and preservation, without regulations and property restrictions, is a positive beginning to protecting and stabilizing neighborhoods, to the great benefit not only of the locality but of the ongoing economic well-being of the State.

**RECOMMENDATION 6. THE COMMITTEE RECOMMENDS THAT THE LAW REGARDING THE PROTECTION OF THE STATE'S VALUABLE ARCHAEOLOGICAL RESOURCES BE AMENDED TO STRENGTHEN ENFORCEMENT OF THE LAW, TO MAKE NECESSARY TECHNICAL CHANGES**

**IN THE TITLE OF THE ARCHAEOLOGIST THAT HEADS THE STATE'S  
ARCHAEOLOGICAL ACTIVITIES. (See Legislative Proposal VIII.)**

The Committee finds that the State law regarding State archaeology needs to be brought up to date and given effective enforcement tools uniformly. The Committee finds that proper and appropriate penalty and endorsement mechanisms needed to be included.

**RECOMMENDATION 7. THE COMMITTEE RECOMMENDS THAT THE LAW  
REGARDING SURVEYS OF HISTORIC PROPERTIES BE AMENDED TO MAKE  
CERTAIN TECHNICAL CORRECTIONS. (See Legislative Proposal IX.)**

The Committee finds that there are several archaic expressions in current law, such as the designation of the "State's liaison officer for historic preservation," that need to be corrected, in this case, to the "State Historic Preservation Officer."

**RECOMMENDATION 8. THE COMMITTEE RECOMMENDS THAT THE  
GENERAL ASSEMBLY SUPPORT THE MAINSTREET PROGRAM'S BUDGET  
REQUEST FOR ADDITIONAL DESIGN STAFF.**

The Committee finds that the Mainstreet Program's budget request for two additional design professionals and one additional program assistant has been accepted into the Department of Natural Resources and Community Development's budget request. The Committee further finds that these additional staff would greatly enable the Mainstreet program to expand its aid to small cities and towns. The Committee finds that the General Assembly would do very well to pass the budget request in its appropriations actions.

The Committee finds also that encouragement should be given to the Mainstreet Program to expand into smaller rural towns and communities.



APPENDIX A

Relevant Portion of Chapter 873 of the 1987 Session Laws  
and H.J.R.1257



## Chapter 873

"Sec. 2.1 The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1987 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

...

(19) Historic Preservation (H.J.R. 1257-Colton; S.J.R. 874-Walker)."



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1987

H

1

HOUSE JOINT RESOLUTION BILL 1257

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Sponsors: Representative Colton.

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Referred to: Appropriations.

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May 5, 1987

1 A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH  
2 COMMISSION TO STUDY HISTORIC PRESERVATION.

3           Whereas, 1989 marks the fiftieth anniversary of the  
4 founding of the Historic Preservation Foundation of North  
5 Carolina; and

6           Whereas, the historic preservation movement has a  
7 significant economic and social impact on the lives of the  
8 citizens of this State; and

9           Whereas, the industry of restoration and preservation of  
10 historic buildings enhances economic growth in this State; and

11           Whereas, studies indicate as much as one hundred sixty  
12 million dollars (\$160,000,000) in commercial historic  
13 preservation projects has been generated in recent years, partly  
14 encouraged by federal tax credits, and millions more have been  
15 invested in residential projects; and

16           Whereas, restoration of historically and architecturally  
17 significant structures in business districts can help cities and  
18 towns revitalize their downtown areas and increase their property  
19 tax base; and

1           Whereas, the preservation of beautiful historic centers  
2 and neighborhoods is necessary if we are to maintain the high  
3 quality of life that is so important in attracting new businesses  
4 and industries to the State; and

5           Whereas, North Carolina's historic properties and  
6 attractions also contribute tremendously to the growth of tourism  
7 in this State; and

8           Whereas, historic preservation efforts have steadily  
9 increased in recent years while, at the same time, there have  
10 been important technical developments in the field; and

11           Whereas, in recent years, the rapid and often  
12 uncoordinated growth in North Carolina's urban centers has led to  
13 the destruction of many of the State's cultural resources and  
14 historic landscapes; and

15           Whereas, the need for greater efforts to protect  
16 historic properties is now particularly acute as North Carolina  
17 continues to lose hundreds of architecturally and historically  
18 significant buildings and areas which are priceless and  
19 irreplaceable assets of the State;

20 Now, therefore, be it resolved by the House of Representatives,  
21 the Senate concurring:

22           Section 1. The Legislative Research Commission may  
23 study historic preservation in North Carolina, including the  
24 following issues:

- 25           (1) The need to revise Chapter 121 of the General  
26 Statutes, relating to Archives and History, to  
27 modernize the law in light of significant changes  
28 and developments in the field of historic  
29 preservation since the law was enacted;
- 30           (2) The impact of historic preservation and restoration  
31 projects on economic growth and how this impact can  
32 be enhanced;
- 33           (3) The contribution of historic buildings, sites, and  
34 attractions to the expansion of tourism in the  
35 State and how to maximize this contribution;

- 1           (4) Whether the laws granting local governments  
2           authority to undertake or regulate historic  
3           preservation projects need to be expanded or  
4           clarified;
- 5           (5) The fiscal impact of existing property tax  
6           deferrals for owners of locally registered historic  
7           properties, considering the effect of enhanced  
8           property values on tax collections;
- 9           (6) Whether other incentives would be more effective or  
10          efficient in encouraging historic preservation on  
11          the local level;
- 12          (7) What programs are currently being operated on the  
13          local and State level to enhance historic  
14          preservation and revitalization, how effective  
15          these programs are, and whether changes are needed  
16          to improve or coordinate these programs;
- 17          (8) How to encourage local governments to undertake  
18          innovative, non-regulatory programs to maintain the  
19          vitality of areas that are not old enough to  
20          qualify as historic districts but are nonetheless  
21          historically, culturally, and aesthetically  
22          important; and
- 23          (9) Any other issue relating to historic preservation  
24          in this State.

25          Sec. 2. The Legislative Research Commission may obtain  
26 the assistance and support of the Historic Preservation  
27 Foundation of North Carolina, the State Historic Preservation  
28 Officer, the Institute of Government, the Attorney General, and  
29 any other recognized experts in this field as it deems  
30 appropriate in conducting the study authorized by this  
31 resolution.

32          Sec. 3. The Commission shall report its findings and  
33 recommendations to the 1989 General Assembly. The report shall  
34 include any proposed legislation necessary to implement the  
35 Commission's recommendations.

1           Sec. 4.   This resolution is effective upon ratification.



APPENDIX B

Membership of LRC Committee on Historic Preservation



Membership of LRC Committee on Historic Preservation

Sen. Russell Walker, Cochair	Rep. John C. Hasty, Cochair
Mr. Bob F. Hill	Rep. Marie W. Colton
Sen. Mary P. Seymour	Rep. Joe H. Hege, Jr.
Sen. William W. Staton	Rep. Beverly M. Perdue,
Mr. John E. Tyler	Rep. Eugene Rogers



APPENDIX C

**Lists of Committee Visitors**





# VISITOR REGISTRATION SHEET

DATE Jan 4, 1988

# HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

[illegible]



## VISITOR REGISTRATION SHEET

DATE March 14, 1980

Historic Preservation Study Commission - New Bern  
(name of commission)

VISITOR: Please sign below and return to clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Kathy D Beckwith	New Bern Historical Society
Harry K Goodman	New Bern Hist Society
Miss Anne C. Brown	Tryon Palace Commission
Will G. H. H.	Historic Site
Sylvia C. Nash	Preservation Fund & Educational
James E. ...	NB Preservation Foundation
Regina Trifiro	New Bern
Laura ...	Historic District Commission
Valerie W. H.	New Bern Historical Society
Thomas ...	1117 N. Raleigh
Pat ...	New Bern
Lynne Sigman	Div of Travel & Tourism
Dorothy Lindsey	Historic District Commission
Bill ...	Historic District Commission
David Brook	N.C. DIV OF ARCHIVES & HISTORY
Mack & Frazier	City of New Bern (Old Town)
W. C. ...	120 ...
George ...	Tryon Palace Commission
David ...	21 ...
...	308 ...
...	...

# VISITOR REGISTRATION SHEET

DATE March 14, 1980

Histon Preservation Study Commission - New Bern  
(name of commission)

VISITOR: Please sign below and return to clerk.

NAME \_\_\_\_\_

FIRM OR STATE AGENCY AND ADDRESS

[illegible]

# VISITOR REGISTRATION SHEET

DATE April 25, 1988

## HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Edward H. Clement	310 S. Ellis St. Salisbury, N.C.
John Williams	Historic Pres. Soc. of NC 9349 Hickory, NC 28603
Mark C. McDonald	Historic Salisbury Fdn. P.O. Box 4221, Salisbury, N.C.
Jim Hall	Private Citizen
Edmund H. Hall	PRESERVATION SOCIETY of Salisbury, N.C.
John C. Larson	448 Factory Row, Winston-Salem, N.C. 27101
Donald A. Downs	David County Found. for Hist. Pres., P.O. Box 1062, Mocksville, N.C.
Eugene Ward	Biltmore Co. Commission, N.C.
David Brook	N.C. Division of Archives and History, 109 East Jones St., Raleigh, N.C. 27611
Myrick Howard	Historic Preservation Foundation of NC, Inc. P.O. Box 27644, Raleigh, N.C. 27611
William S. Price, Jr.	Division of Archives & History, Raleigh 27611
Jim Bobbitt	Hickory Landmarks Society, Hickory, NC 28601
Carney Walker	Hickory Landmarks Society, Box 2391, Hickory, NC
DAVE PICKERING	Biltmore Company Smith Restoration, N. Park Sq., Asheville, N.C.
MARC HERRING	Black Mountain College
Betty A. Sherrell	Transylvania Co. Historical Society, P.O. Box 2061, Stevered, N.C. 28771
Rowell D. Basse	TRANS. CO. HISTORICAL SOCIETY, P.O. Box 502, BREVARD, N.C. 28712
Dottie W. Tinsley	Transylvania Co. Historical Society, 125 Miner St., Brevard, N.C. 28712
Emmett M. Hays	Transylvania Co. Historical Society, Inc., One Granite St., Brevard, N.C. 28712
John "Gus" Simard Jr.	Davidson County Historical Society, Rt. 1 Box 10, Petersburg, N.C. 28766

## VISITOR REGISTRATION SHEET

DATE April 25, 1988HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Jerrold Lee Brooks	N.C. HISTORICAL COMMISSION + PROFESSIONAL REV COMMITTEE, P.O. Box 10, MONTREAT, N.C. 28758
EMIL K. KARPEN	League of Women Voters 518 OX CREEK RD, Weaverville NC 28787 (home)
JOE MICHEL	RICHMOND HILL 1410 MILL ST GREENSBORO, NC 27403
Barbara H. Melling	102 Madison Place 28001 (W. Jennings Longmire House) Historic Resources Commission of Asheville & surrounding area
JOHN HORTON	DIV. OF ARCHIVES & HISTORY - RESTORATION 19 VETERANS DR., ASHEVILLE NC 28805
Martha Walker Fullington	Div. of Archives & History - Preservation Specialist 13 Veterans Dr., Asheville, NC 28805
EDITH SANDS	190 WASHINGTON AVE ASHEVILLE, N.C. 28801
David Thurmond	KRIPS/Asheville
Richard J. Winkler	Section, Asheville, NC
Hal Mason	Director, Economic Development, City of Shelby P.O. Box 207, Shelby, NC 28150
Sylvia Singson	N.C. Dept. of Commerce - Div. of Trade Development, Raleigh, NC 27601
JOHN G. WINKENWEIDER	BUNCOMBE COUNTY TDA
HARRY GIEZENTANNER	Realtor with JD Jackson Assoc. Asheville
Jane T. Gorman	Realtor/CRAT Realty - 88 Central Ave 13 Veterans Dr.
David Moore	Div. of Archives & History - Archaeology Asheville
Betty H. Gorman	Public Lands Administration - Madison & C
Robert L. Gorman	N.C. Senate Asheville, NC
SCOTT W. ROSEBUSH	HENDERSON COUNTY PRESERVATION RT. 3, BOX 135 Hendersonville 28031
John T. Gorman	Asheville, NC
J. Bayler	Asheville, NC P.O. Box 311 28802
BECKY FERRIS	Historic Preservation Foundation of N.C. Western Branch, P.O. Box 9349 Charlotte, NC 28203

## VISITOR REGISTRATION SHEET

DATE *June 25*

*W. J. ...*

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME \_\_\_\_\_

FIRM OR STATE AGENCY AND ADDRESS

Sum. A - 11

*Diploteris acrostichoides* (L.) Presl

Miss. W. L. L. L.

Division, Historic Block, Grand Ave.

George Johnson

Presidents: Flat Rock 110 15-12-1964 28

California Aircraft Co.

Bd of Governors, H. & B. Co., Forest of ...

No. 1726

Director - Eastern Princeton Journal & N

Verhuur B. v. d. A. v. d. A.

HRC member, Asheville N.C.

Jim Simsek

Architect

## VISITOR REGISTRATION SHEET

DATE October 27, 1988

## HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME \_\_\_\_\_

FIRM OR STATE AGENCY AND ADDRESS

Keith A. Daniel	411 Oakwood Ave., Raleigh
Michael S. Davis	Fiscal Agent
William S. Pinn, Jr.	DCR - Div. of Archives & History
David Brooks	D. H. Div. of Archives & History, State Historic Preservation Office
LORES A. HALL	DCR, ARCHIVES & HISTORY, OFFICE OF STATE ARCHAEOLOGY
L. Honeycutt, Jr.	DCR, Div. of Archives & History, SHPO, Restoration Branch
Paula Brown	DCR, Archives & History, SHPO, Survey Planning Branch
Langdon E. Oppermann	Consistent Preservation, 1500 Oakwood Ave., Raleigh
Bob S. Jones	1300 P. Lane, Chapel Hill 27515
Art Jackson	Donation form for Cons. P. P. 222, 276
Kara Campbell	1200 W. Main St., New Orleans

# VISITOR REGISTRATION SHEET

DATE Nov. 16, 1988

# HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME \_\_\_\_\_

FIRM OR STATE AGENCY AND ADDRESS

David Brook

Division of Archives and History  
State Historic Preservation Office

DOLores A HALL.

# DIVISION OF ARCHIVES & HISTORY, STATE HISTORIC PRESERVATION OFFICE, ARCHAEOLOGY

Bob Stipe

100 Pine Lane Chapel Hill 27514

Myrick Howard

Historic Preservation Foundation of NC  
P.O. Box 27644 Raleigh 27611

Margaret L. Y. glc. —

wife of John E. Tyler

Laura Kravitz

## NC League of Municipalities

Mary Ellen Brown

CITY OF GANFORD N.E. MAIN STREET  
DOWNTOWN REVITALIZATION DEPT.

Ted Alexander

Executive Director  
Uptown Shelby Assoc, Inc. NC Main St.  
Main Street Project Manager Community  
City of Humboldt

Ark. Matter

City of Huntington





APPENDICES D-L

Legislative Proposals I-IX



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-19

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

DRAFT

FOR REVIEW ONLY

Short Title: State Historic Properties (Public)

Sponsors: .

Referred to:

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE PROTECTION OF NORTH CAROLINA HISTORIC  
3 PROPERTIES.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Chapter 121 of the General Statutes is  
6 amended by adding a new Article to Read:  
7 "ARTICLE 1A  
8 Protection of North Carolina Historic  
9 Properties.  
10 "§ G.S.121-13.5. North Carolina Advisory Council on Historic  
11 Preservation.--(a) There is established a North Carolina Advisory  
12 Council on Historic Preservation ("Council"), which shall be  
13 composed of 13 members, to be appointed as follows:  
14 (1) A chairman appointed by the Governor from the  
15 general public;  
16 (2) The Chairman of the North Carolina Historical  
17 Commission;  
18 (3) The Secretaries of the Departments of  
19 Administration, Commerce, Cultural Resources,

Natural Resources and Community Development, and  
Transportation, or their designees;

(4) One elected head of a unit of local government,  
appointed by the General Assembly, upon  
recommendation of the Speaker of the House of  
Representatives;

(5) Four experts in the field of historic preservation  
from the disciplines of Architecture, History,  
Archaeology, and other appropriate disciplines, two  
of whom shall be appointed by the General Assembly  
upon recommendation of the Speaker of the House of  
Representatives and two of whom shall be appointed  
by the General Assembly upon recommendation of the  
President pro tempore of the Senate; and

(6) One individual from the general public, appointed  
by the General Assembly upon recommendation of the  
President pro tempore of the Senate.

All members are voting members. A majority constitutes  
a quorum. The chairman shall vote in all issues requiring a  
vote.

(b) All appointed members serve four year terms, except  
for the member appointed pursuant to subdivision (4) of  
subsection (a) of this section, who shall serve for the term of  
elected office, but no longer than four years. Each member may  
be reappointed to serve an additional consecutive term. After  
being off the Council for a four year term, a member may be  
reappointed. Vacancies in membership shall be filled under the  
authority that the member leaving the vacancy was appointed. An  
appointed member whose term has expired shall serve until the  
member's successor has been appointed.

(c) The Council shall:

(1) Facilitate the protection of historic properties in  
State planning and development pursuant to this  
Chapter:

(2) Provide, in cooperation with the State Preservation Officer, training and education in the field of historic preservation to appropriate officials and personnel of State agencies; and

(3) Encourage and develop in cooperation with the Secretaries of the Departments of Administration and Cultural Resources, and in consultation with the Secretaries of the Departments of Transportation, Commerce, and Natural Resources and Community Development, and the League of Municipalities and the Association of County Commissioners, and the North Carolina Historic Preservation Foundation, a central clearing house for information on historic preservation for the benefit and use of public and private agencies and individuals in North Carolina.

(d) Financial and administrative services shall be provided by the Department of Cultural Resources. The Council shall submit its budget as a related agency of the Department of Cultural Resources. The Executive Secretary of the Council shall be the State Historic Preservation Officer.

(e) The North Carolina Historical Commission in consultation with the Department of Administration shall adopt rules to implement the provisions of this Article.

(f) Until such time as the North Carolina Advisory Council on Historic Preservation is funded and in full force and effect, its duties and responsibilities shall be undertaken by the North Carolina Historical Commission, to the extent possible.

"§ 121-13.6. North Carolina Advisory Council on Historic Preservation; agency cooperation, consultation.--The Council shall, meeting at such times and according to such procedures as it prescribes by rule, provide an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed. and when possible, resolved,

1 giving due consideration to the competing public interests that  
2 may be involved. To this end, the head of any State agency  
3 having direct or indirect jurisdiction over a proposed State or  
4 state-assisted authorized undertaking, or the head of any State  
5 department, board, commission, or independent agency, having  
6 authority to build, construct, operate, license, authorize,  
7 assist, or approve any undertaking, shall, prior to the approval  
8 of any State funds for the undertaking, or prior to any approval,  
9 license, or authorization, as the case may be, take into account  
10 the effect of the undertaking on any district, site, building,  
11 structure, or object that is listed in or eligible for the North  
12 Carolina Register of Historic Places, established pursuant to  
13 G.S. 121-4,1.

14 When, in the judgment of the Council, an undertaking  
15 will have an effect upon any listed district, site, building,  
16 structure, area, or object, the head of the appropriate State  
17 agency shall afford the Council a reasonable opportunity to  
18 comment with regard to the undertaking.

19 The Council shall act with reasonable diligence to  
20 ensure that all State departments, boards, commissions, or  
21 agencies potentially affected by the provisions of this section  
22 be kept currently informed with respect to the name, location,  
23 and other significant particulars of any district, site,  
24 building, structure, or object listed or placed upon the North  
25 Carolina Register of Historic Places. Each affected State  
26 department or agency shall furnish, either upon its own  
27 initiative or at the request of the Council such information as  
28 may reasonable be required by the Council for the proper  
29 implentation of this section.

30 "§ 121-13.7. State agencies' responsibilities for protection of  
31 historic properties.--Consonant with G.S. G.S. 121-5 and  
32 G.S.121-6, the heads of all State agencies shall:

33 (1) With the advice of the State Preservation Officer,  
34 locate, inventory, and provide to the Department of  
35 Cultural Resources a listing of all buildings,

structures, sites, districts, and objects under  
their jurisdiction or control that qualify for  
inclusion in the North Carolina Register of  
Historic Places, established pursuant to G.S.  
121-4.1. This listing shall be completed by July  
1, 1992;

(2) Exercise caution during the interim period until  
inventories and evaluations required by subdivision  
(1) of this section are completed to assure that  
any State owned property that might qualify for  
listing is not inadvertently transferred, sold,  
demolished, or substantially altered. The agency  
shall refer any questionable actions to the State  
Historic Preservation Officer for an opinion  
respecting the property's eligibility for inclusion  
in the North Carolina Register of Historic Places;

(3) Initiate measures to assure that, when as a result  
of State action, assistance, or license, a property  
listed in the North Carolina Register of Historic  
Places is to be substantially altered or  
demolished, timely steps be taken to make or have  
made records, including measured drawings,  
photographs, and maps of the property, and that  
copies of these records then be deposited in the  
State archives for future reference and use.

Agencies may call on the State Historic  
Preservation Officer for advice and technical  
assistance in the completion of these records;

(4) Initiate measures to assure that, when as a result  
of State action, assistance, or license, as  
archeological property listed in or eligible for  
the North Carolina Register of Historic Places is  
to be substantially damaged or destroyed, timely  
steps be taken for data recovery and that a report  
of this recovery be submitted to the North Carolina

1           SHPO. Agencies may call upon the North Carolina  
2           SHPO for advice and technical assistance in the  
3           completion of this data recovery and report.

4           (5) Initiate measures and procedures to provide for the  
5           maintenance, through preservation, rehabilitation,  
6           or restoration, of State owned and registered sites  
7           to professional standards prescribed by the North  
8           Carolina Historical Commission;

9           (6) Initiate measures and procedures to provide for the  
10           maintenance, through preservation, rehabilitation,  
11           or restoration, of State owned and registered  
12           properties to professional standards prescribed by  
13           the North Carolina Historical Commission:

14           (7) Designate a qualified official to be known as that  
15           agency's 'Preservation Officer' who shall be  
16           responsible for coordinating that agency's  
17           activities under this section. Each agency's  
18           preservation officer may, in order to be considered  
19           qualified, satisfactorily complete an appropriate  
20           training program established by the State Historic  
21           Preservation Officer; and

22           (8) When appropriate, allocate funds appropriated for  
23           their agency's authorized programs for the purposes  
24           of activities carried out pursuant to this section,  
25           except to the extent that appropriations  
26           legislation expressly provides otherwise. Each  
27           State agency may include the costs of preservation  
28           activities under this section as eligible project  
29           costs in all undertakings of that agency or  
30           assisted by that agency. These eligible project  
31           costs may also include amounts paid by a State  
32           agency to any other State agency, corporation,  
33           institution of higher education, of professional  
34           education, to be used in carrying out the  
35           preservation protection activities of that State



agency under this Article. These eligible project costs may also include reasonable costs charged to State licensees and permittees as a condition of the issuance of the license or permit;

(9) In consultation with the North Carolina Historical Commission, institute procedures to assure that agency plans and programs (including those under which any State assistance is provided or any State license, permit, or other approval is required), contribute to the preservation and enhancement of non-State owned properties of historical, architectural, or archaeological significance; and

(10) After consultation with the State Historic Preservation Officer, withhold from public disclosure information relating to the location or character of historic resources whenever the head of the agency or the State Historic Preservation Officer determines that the disclosure of this information may create substantial risk of harm, theft, or destruction to these resources or to the place or area where these resources are located. Each agency that so withholds information shall ensure that this information is shared on a confidential basis with those people that require it in order to participate in the review of undertakings under G.S.121-44 and under this Article."

Sec. 2. There is appropriated from the General Fund to the Department of Cultural Resources the sum of fifteen thousand dollars (\$15,000) for the 1989-90 fiscal year and the sum of fifteen thousand dollars (\$15,000) for the 1990-91 fiscal year, to fund the Council established by this act.

Sec. 3. This act shall become effective October 1, 1988.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1989

H

D

89-LF-21

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: State Historic Places Register. (Public)

Sponsors: .

Referred to:

DRAFT

FOR REVIEW ONLY

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE NORTH CAROLINA REGISTER OF HISTORIC  
3 PLACES.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Article 1 of Chapter 121 of the General  
6 Statutes is amended by adding a new section to read:  
7 "§ 121-4.1. North Carolina Register of Historic Places.--(a)  
8 The Department of Cultural Resources may establish, expand, and  
9 maintain a North Carolina Register of Historic Places composed of  
10 districts, sites, buildings, structures, and objects significant  
11 in North Carolina history, architecture, archaeology,  
12 engineering, and culture. Until such time as the North Carolina  
13 Register of Historic Places is established, all references to it  
14 in the General Statutes and in the rules adopted pursuant to it  
15 shall be construed to mean properties and districts in North  
16 Carolina that are listed in the National Register of Historic  
17 Places.  
18 (b) The North Carolina Historical Commission shall  
19 establish criteria for properties to be included in the State

1 Register of Historic Places, and, within such criteria, shall  
2 provide for levels of significance as necessary and appropriate."

3           Sec. 2. This act shall become effective October 1,  
4 1988.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-10

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

DRAFT

FOR REVIEW ONLY

Short Title: Historic Districts and Landmarks (Public)

Sponsors:.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE HISTORIC DISTRICTS AND LANDMARKS.  
3 The General Assembly of North Carolina enacts:  
4 Section 1. Part 3A and Part 3B of Chapter 160A of the  
5 General Statutes are repealed.  
6 Sec. 2. Chapter 160A of the General Statutes is amended  
7 by adding a new Part to read:  
8 "PART 3. HISTORIC DISTRICTS AND LANDMARKS  
9 "§ 160A-400.1. Legislative findings.--(a) The historical  
10 heritage of our state is one of our most valued and important  
11 assets. The conservation and preservation of historic districts  
12 and landmarks stabilize and increase property values in their  
13 areas and strengthen the overall economy of the state. This part  
14 authorizes cities and counties of the state within their  
15 respective zoning jurisdictions and by means of listing,  
16 regulation, and acquisition:  
17 (1) to safeguard the heritage of the city or county by  
18 preserving any district or landmark therein that

embodies important elements of its culture,  
history, architectural history, or prehistory; and  
(2) to promote the use and conservation of such  
district or landmark for the education, pleasure  
and enrichment of the residents of the city or  
county and the state as a whole.

"§ 160A-400.2. Exercise of powers by counties as well as  
cities.--The term 'municipality' or 'municipal' as used in G.S.  
160A-400.1 through 160A-400.15 shall be deemed to include the  
governing board or legislative board of a county, to the end that  
counties may exercise the same powers as cities with respect to  
the establishment of historic districts and designation of  
landmarks.

"§ 160A-400.3. Character of historic district  
defined.--Historic districts established pursuant to this part  
shall consist of areas which are deemed to be of special  
significance in terms of their history, prehistory, architecture,  
and/or culture, and to possess integrity of design, setting,  
materials, feeling, and association.

"§ 160A-400.4. Designation of historic districts.--Any municipal  
governing governing board may, as part of a zoning or other  
ordinance enacted or amended pursuant to this Article, designate  
and from time to time amend one or more historic districts within  
the area subject to the ordinance. Such ordinance may treat  
historic districts either as a separate use district  
classification or as districts which overlay other zoning  
districts. Where historic districts are designated as separate  
use districts, the zoning ordinance may include as uses by right  
or as conditional uses those uses found by the Preservation  
Commission to have existed during the period sought to be  
restored or preserved, or to be compatible with the restoration  
or preservation of the district.

No historic district or districts shall be designated until:

(1) An investigation and report describing the  
significance of the buildings, structures,

1 features, sites or surroundings included in any  
2 such proposed district, and a description of the  
3 boundaries of such district has been prepared, and

4 (2) The Department of Cultural Resources, acting  
5 through the State Historic Preservation Office or  
6 his or her designee, shall have made an analysis of  
7 and recommendations concerning such report and  
8 description of proposed boundaries. Failure of the  
9 department to submit its written analysis and  
10 recommendations to the municipal governing board  
11 within 30 calendar days after a written request for  
12 such analysis has been received by the Department  
13 of Cultural Resources shall relieve the  
14 municipality of any responsibility for awaiting  
15 such analysis, and said board may at any time  
16 thereafter take any necessary action to adopt or  
17 amend its zoning ordinance.

18 The municipal governing board may also, in its discretion,  
19 refer the report and proposed boundaries to any local  
20 preservation commission or other interested body for its  
21 recommendations prior to taking action to amend the zoning  
22 ordinance. With respect to any changes in the boundaries of such  
23 district subsequent to its initial establishment, or the creation  
24 of additional districts within the jurisdiction, the  
25 investigative studies and reports required by subdivision (1) of  
26 this section shall be prepared by the preservation commission,  
27 and shall be referred to the local planning agency for its review  
28 and comment according to procedures set forth in the zoning  
29 ordinance. Changes in the boundaries of an initial district or  
30 proposal for additional districts shall also be submitted to the  
31 Department of Cultural Resources in accordance with the  
32 provisions of subdivision (2) of this section.

33 On receipt of these reports and recommendations, the  
34 municipality may proceed in the same manner as would otherwise be

1 required for the adoption or amendment of any appropriate zoning  
2 ordinance provisions.

3 "§ 160A-400.5. Designation of landmarks; adoption of an  
4 ordinance; criteria for designation.--Upon complying with G.S.  
5 160A-400.6, the governing board may adopt and from time to time  
6 amend or repeal an ordinance designating one or more historic  
7 landmarks. No property shall be recommended for designation as a  
8 historic landmark unless it is deemed and found by the  
9 preservation commission to be of special significance in terms of  
10 its historical, prehistorical, architectural, or cultural  
11 importance, and to possess integrity of design, setting,  
12 workmanship, materials, feeling and/or association.

13 The ordinance shall describe each property designated in the  
14 ordinance, the name or names of the owner or owners of the  
15 property, those elements of the property that are integral to its  
16 historical, architectural, or archaeological value, including the  
17 area of the property so designated, and any other information the  
18 governing board deems necessary. For each building, structure,  
19 site, area, or object so designated as a historic property, the  
20 ordinance shall require that the waiting period set forth in this  
21 Part be observed prior to its demolition. For each designated  
22 landmark, the ordinance may also provide for a suitable sign on  
23 the property indicating that the property has been so designated.  
24 If the owner consents, the sign shall be placed upon the  
25 property. If the owner objects, the sign shall be placed on a  
26 nearby public right-of-way.

27 "§ 160A-400.6. Required landmark designation procedures.--As a  
28 guide for the identification and evaluation of landmarks, the  
29 commission shall undertake, at the earliest possible time and  
30 consistent with the resources available to it, an inventory of  
31 properties of historical, architectural, archaeological, and  
32 cultural significance within its jurisdiction. Such inventories  
33 and any additions or revisions thereof shall be submitted as  
34 expeditiously as possible to the Division of Archives and  
35 History. No ordinance designating a historic building,



1 structure, site, area or object as a landmark nor any amendment  
2 thereto may be adopted, nor may any property be accepted or  
3 acquired by a preservation commission or the governing board of a  
4 municipality, until all of the following procedural steps have  
5 been taken:

6       (1) The preservation commission shall (i) prepare and  
7       adopt rules of procedure, and (ii) prepare and  
8       adopt principles and guidelines, not inconsistent  
9       with this part, for altering, restoring, moving, or  
10       demolishing properties designated as landmarks.

11       (2) The preservation commission shall make or cause to  
12       be made an investigation and report on the  
13       historic, architectural, archaeological,  
14       educational or cultural significance of each  
15       building, structure, site, area or object proposed  
16       for designation or acquisition. Such investigation  
17       or report shall be forwarded to the Division of  
18       Archives and History, North Carolina Department of  
19       Cultural Resources.

20       (3) The Department of Cultural Resources, acting  
21       through the State Historic Preservation Officer  
22       shall either upon request of the department or at  
23       the initiative of the preservation commission be  
24       given an opportunity to review and comment upon the  
25       substance and effect of the designation of any  
26       landmark pursuant to this part. Any comments shall  
27       be provided in writing. If the Department does not  
28       submit its comments or recommendation in connection  
29       with any designation within 30 days following  
30       receipt by the Department of the investigation and  
31       report of the commission, the commission and any  
32       city or county governing board shall be relieved of  
33       any responsibility to consider such comments.

34       (4) The preservation commission and the governing board  
35       shall hold a joint public hearing or separate

public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33B.

(5) Following the joint public hearing or separate public hearings, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the preservation commission shall pay a reasonable fee for filing and indexing. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on

1           all tax maps maintained by the county or city for  
2           such period as the designation remains in effect.

3           (7) upon the adoption of the landmarks ordinance or any  
4           amendment thereto, it shall be the duty of the  
5           preservation commission to give notice thereof to  
6           the tax supervisor of the county in which the  
7           property is located. The designation and any  
8           recorded restrictions upon the property limiting  
9           its use for preservation purposes shall be  
10           considered by the tax supervisor in appraising it  
11           for tax purposes.

12        "§ 160A-400.7. Historic Preservation Commission.--Before it  
13 may designate one or more landmarks or historic districts, a  
14 municipality shall establish or designate a historic preservation  
15 commission. The municipal governing board shall determine the  
16 number of the members of the commission, which shall be at least  
17 three, and the length of their terms, which shall be no greater  
18 than four years. A majority of the members of such a commission  
19 shall have demonstrated special interest, experience, or  
20 education in history, architecture, archaeology, or related  
21 fields. All the members shall reside within the territorial  
22 jurisdiction of the municipality as established pursuant to G.S.  
23 160A-360. The commission may appoint advisory bodies and  
24 committees as appropriate.

25        In lieu of establishing a historic preservation commission, a  
26 municipality may designate as its historic preservation  
27 commission, (i) a separate historic districts commission or a  
28 separate historic landmarks commission established pursuant to  
29 this Part to deal only with historic districts or landmarks  
30 respectively, (ii) a planning agency established pursuant to this  
31 Article, or (iii) a community appearance commission established  
32 pursuant to Part 7 of this Article. In order for a commission or  
33 board other than the preservation commission to be designated, at  
34 least three of its members shall have demonstrated special  
35 interest, experience, or education in history, architecture, or

1 related fields. At the discretion of the municipality the  
2 ordinance may also provide that the preservation commission may  
3 exercise within a historic district any or all of the powers of a  
4 planning agency or a community appearance commission.

5 A county and one or more cities in the county may establish or  
6 designate a joint preservation commission. If a joint commission  
7 is established or designated, the county and cities involved  
8 shall determine the residence requirements of members of the  
9 joint preservation commission.

10 "**§ 160A-400.8 Powers of the Historic Preservation Commission-**  
11 **-A preservation commission established pursuant to this Part may,**  
12 **within the zoning jurisdiction of the municipality,:**

13 (1) Undertake an inventory of properties of historical,  
14 prehistorical, architectural, and/or cultural  
15 significance;

16 (2) Recommend to the municipal governing board areas to  
17 be designated by ordinance as 'Historic Districts';  
18 and individual structures, buildings, sites, areas,  
19 or objects to be designated by ordinance as  
20 'Landmarks';

21 (3) Acquire by any lawful means the fee or any lesser  
22 included interest, including options to purchase,  
23 to properties within established districts or to  
24 any such properties designated as landmarks, to  
25 hold, manage, preserve, restore and improve the  
26 same, and to exchange or dispose of the property by  
27 public or private sale, lease or otherwise, subject  
28 to covenants or other legally binding restrictions  
29 which will secure appropriate rights of public  
30 access and promote the preservation of the  
31 property;

32 (4) Restore, preserve and operate historic properties;

33 (5) Recommend to the governing board that designation  
34 of any area as a historic district or part thereof,  
35 or designation of any building, structure, site,

1           area, or object as a landmark, be revoked or  
2           removed for cause;

3           (6) Conduct an educational program with respect to  
4           historic properties and districts within its  
5           jurisdiction;

6           (7) Cooperate with the state, federal, and local  
7           governments in pursuance of the purposes of this  
8           part. The governing board or the commission when  
9           authorized by the governing board may contract with  
10           the state, or the United States of America, or any  
11           agency of either, or with any other organization  
12           provided the terms are not inconsistent with state  
13           or federal law;

14           (8) Enter, solely in performance of its official duties  
15           and only at reasonable times, upon private lands  
16           for examination or survey thereof. However, no  
17           member, employee or agent of the commission may  
18           enter any private building or structure without the  
19           express consent of the owner or occupant thereof;

20           (9) Prepare and recommend the official adoption of a  
21           preservation element as part of the municipality's  
22           comprehensive plan'

23           (10) Review and act upon proposals for alterations,  
24           demolitions, or new construction within historic  
25           districts, or for the alteration or demolition of  
26           designated landmarks, pursuant to this part; and

27           (11) Negotiate at any time with the owner of a building,  
28           structure, site, area, or object for its  
29           acquisition or its preservation, when such action  
30           is reasonably necessary or appropriate.

31    "§ 160A-400.9 Certificate of appropriateness required--(a)  
32    From and after the designation of a landmark or a historic  
33    district, no exterior portion of any building or other structure  
34    (including masonry walls, fences, light fixtures, steps and  
35    pavement, or other appurtenant features), nor above-ground

1 utility structure nor any type of outdoor advertising sign shall  
2 be erected, altered, restored, moved, or demolished on such  
3 landmark or within such district until after an application for a  
4 certificate of appropriateness as to exterior features has been  
5 submitted to and approved by the preservation commission. The  
6 municipality shall require such a certificate to be issued by the  
7 commission prior to the issuance of a building permit or other  
8 permit granted for the purposes of constructing, altering,  
9 moving, or demolishing structures, which certificate may be  
10 issued subject to reasonable conditions necessary to carry out  
11 the purposes of this part. A certificate of appropriateness  
12 shall be required whether or not a building or other permit is  
13 required.

14 For purposes of this part, 'exterior features' shall include  
15 the architectural style, general design, and general arrangement  
16 of the exterior of a building or other structure, including the  
17 kind and texture of the building material, the size and scale of  
18 the building, and the type and style of all windows, doors, light  
19 fixtures, signs, and other appurtenant fixtures. In the case of  
20 outdoor advertising signs, 'exterior features' shall be construed  
21 to mean the style, material, size, and location of all such  
22 signs. Such 'exterior features' may, in the discretion of the  
23 local governing board, include historic signs, color, and  
24 significant landscape, archaeological, and natural features of  
25 the area.

26 Except as provided in (b) below, the commission shall have no  
27 jurisdiction over interior arrangement and shall take no action  
28 under this section except to prevent the construction,  
29 reconstruction, alteration, restoration, moving, or demolition of  
30 buildings, structures, appurtenant fixtures, outdoor advertising  
31 signs, or other significant features in the district which would  
32 be incongruous with the special character of the landmark or  
33 district.

34 (b) Notwithstanding subsection (a) of this section,  
35 jurisdiction of the commission over interior spaces shall be

1 limited to specified interior features of architectural, artistic  
2 or historical significance in publicly owned landmarks; and of  
3 privately owned historic landmarks that are routinely open and  
4 accessible to the public; and of privately owned historic  
5 landmarks for which consent for interior review has been given by  
6 the owner. Said consent of an owner for interior review shall  
7 bind future owners and other successors in title. The landmark  
8 designation shall specify the interior features to be reviewed  
9 and the specific nature of the commission's jurisdiction over the  
10 interior.

11 (c) Prior to any action to enforce a landmark or historic  
12 district ordinance, the commission shall (i) prepare and adopt  
13 rules of procedure, and (ii) prepare and adopt principles and  
14 guidelines not inconsistent with this part for new construction,  
15 alterations, additions, moving and demolition. The ordinance may  
16 provide, subject to prior adoption by the preservation commission  
17 of detailed standards, for the review and approval by an  
18 administrative official of applications for a certificate of  
19 appropriateness or of minor works as defined by ordinance;  
20 provided, however, that no application for a certificate of  
21 appropriateness may be denied without formal action by the  
22 preservation commission.

23 Prior to issuance or denial of a certificate of appropriateness  
24 the commission shall take such steps as may be reasonably  
25 required in the ordinance and/or rules of procedure to inform the  
26 owners of any property likely to be materially affected by the  
27 application, and shall give the applicant and such owners an  
28 opportunity to be heard. In cases where the commission deems it  
29 necessary, it may hold a public hearing concerning the  
30 application. All meetings of the commission shall be open to the  
31 public, in accordance with the North Carolina Open Meetings Law,  
32 Chapter 143, Article 33B.

33 (d) All applications for certificates of appropriateness shall  
34 be reviewed and acted upon within a reasonable time, as defined  
35 by the ordinance or the commission's rules of procedure. As part

1 of its review procedure, the commission may view the premises and  
2 seek the advice of the Division of Archives and History or such  
3 other expert advice as it may deem necessary under the  
4 circumstances.

5 (e) An appeal may be taken to the Board of Adjustment from the  
6 commission's action in granting or denying any certificate, which  
7 appeals (i) may be taken by any aggrieved party, (ii) shall be  
8 taken within times prescribed by the preservation commission by  
9 general rule, and (iii) shall be in the nature of certiorari.  
10 Any appeal from the Board of Adjustment's decision in any such  
11 case shall be heard by the superior court of the county in which  
12 the municipality is located.

13 (f) All of the provisions of this Part are hereby made  
14 applicable to construction, alteration, moving and demolition by  
15 the State of North Carolina, its political subdivisions, agencies  
16 and instrumentalities, provided however they shall not apply to  
17 interiors of buildings or structures owned by the State of North  
18 Carolina. The State and its agencies shall have a right of  
19 appeal to the North Carolina Historical Commission or any  
20 successor agency assuming its responsibilities under G.S.  
21 121-12(a) from any decision of a local preservation commission.  
22 The commission shall render its decision within 30 days from the  
23 date that the notice of appeal by the State is received by it.  
24 The current edition of the Secretary of the Interior's Standards  
25 for Rehabilitation and Guidelines for Rehabilitating Historic  
26 Buildings shall be the sole principles and guidelines used in  
27 reviewing applications of the State for certificates of  
28 appropriateness. The decision of the council shall be final and  
29 binding upon both the State and the preservation commission.

30 "§ 160A-400.10 Conflict with other laws.--Whenever any  
31 ordinance adopted pursuant to this part requires a longer waiting  
32 period or imposes other higher standards with respect to a  
33 designated historic landmark or district than are established  
34 under any other statute, charter provision, or regulation, this  
35 part shall govern. Whenever the provisions of any other statute,



1 charter provision, ordinance or regulation require a longer  
2 waiting period or impose other higher standards than are  
3 established under this part, such other statute, charter  
4 provision, ordinance or regulation shall govern.

5 "§ 160A-400.11 Remedies.--In case any building, structure,  
6 site, area or object designated as a historic landmark or located  
7 within a historic district designated pursuant to this part is  
8 about to be demolished whether as the result of deliberate  
9 neglect or otherwise, materially altered, remodeled, removed or  
10 destroyed, except in compliance with the ordinance or other  
11 provisions of this part, the city or county, the historic  
12 preservation commission, or other party aggrieved by such action  
13 may institute any appropriate action or proceedings to prevent  
14 such unlawful demolition, destruction, material alteration,  
15 remodeling or removal, to restrain, correct or abate such  
16 violation, or to prevent any illegal act or conduct with respect  
17 to such building, structure, site, area or object. Such remedies  
18 shall be in addition to any others authorized by this chapter for  
19 violation of a municipal ordinance.

20 "§ 160A-400.12 Appropriations.--A city or county governing  
21 board is authorized to make appropriations to a historic  
22 preservation commission established pursuant to this part in any  
23 amount that it may determine necessary for the expenses of the  
24 operation of the commission, and may make available any  
25 additional amounts necessary for the acquisition, restoration,  
26 preservation, operation, and management of historic buildings,  
27 structures, sites, areas or objects designated as historic  
28 landmarks or within designated historic districts, or of land on  
29 which such buildings or structures are located, or to which they  
30 may be removed.

31 "§ 160A-400.13 Certain changes not prohibited.--Nothing in  
32 this part shall be construed to prevent the ordinary maintenance  
33 or repair of any exterior architectural feature in a historic  
34 district or of a landmark which does not involve a change in  
35 design, material or appearance thereof, nor to prevent the

1 construction, reconstruction, alteration, restoration, moving or  
2 demolition of any such feature which the building inspector or  
3 similar official shall certify is required by the public safety  
4 because of an unsafe or dangerous condition. Nothing in this  
5 part shall be construed to prevent a property owner from making  
6 any use of his property that is not prohibited by other law.

7 **"§ 160A-400.14 Delay in demolition of landmarks and buildings**  
8 **within historic district.--(a)** An application for a certificate  
9 of appropriateness authorizing the demolition or destruction of a  
10 designated landmark or a building, structure or site within the  
11 district may not be denied except as provided in subsection (c).  
12 However, the effective date of such a certificate may be delayed  
13 for a period of up to 365 days from the date of approval. The  
14 maximum period of delay authorized by this section shall be  
15 reduced by the commission where it finds that the owner would  
16 suffer extreme hardship or be permanently deprived of all  
17 beneficial use of or return from such property by virtue of the  
18 delay. During such period the preservation commission shall  
19 negotiate with the owner and with any other parties in an effort  
20 to find a means of preserving the building or site. If the  
21 preservation commission finds that a building or site within a  
22 district has no special significance or value toward maintaining  
23 the character of the district, it shall waive all or part of such  
24 period and authorize earlier demolition, or removal.

25 If the commission or planning agency has voted to recommend  
26 designation of a property as a landmark or designation of an area  
27 as a district, and final designation has not been made by the  
28 local governing board, the demolition or destruction of any  
29 building, site, or structure located on the property of the  
30 proposed landmark or in the proposed district may be delayed by  
31 the commission or planning agency for a period of up to 180 days  
32 or until the local governing board takes final action on the  
33 designation, whichever occurs first.

34 (b) The governing board of any municipality may enact an  
35 ordinance to prevent the demolition by neglect of any designated

1 landmark or any building or structure within an established  
2 historic district. Such ordinance shall provide appropriate  
3 safeguards to protect property owners from undue economic  
4 hardship.

5 (c) An application for a certificate of appropriateness  
6 authorizing the demolition or destruction of a building, site, or  
7 structure determined by the State Historic Preservation Officer  
8 as having statewide significance may be denied except where the  
9 commission finds that the owner would suffer extreme hardship or  
10 be permanently deprived of all beneficial use or return by virtue  
11 of the denial."

12           Sec. 3. This act shall become effective October 1,  
13 1989.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

DRAFT

D

89-LF-14

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

FOR REVIEW ONLY

Short Title: Eminent Domain Change.

(Public)

Sponsors: .

Referred to:

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW OF EMINENT DOMAIN REGARDING HISTORIC  
3 PROPERTIES.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S.40A-3(b) reads as rewritten:  
6 "(b) Local Public Condemnors. -- For the public use or benefit,  
7 the governing body of each municipality or county shall possess  
8 the power of eminent domain and may acquire by purchase, gift or  
9 condemnation any property, either inside or outside its  
10 boundaries, for the following purposes.  
11 (1) Opening, widening, extending, or improving roads, streets,  
12 alleys, and sidewalks. The authority contained in this subsection  
13 is in addition to the authority to acquire rights- of-way for  
14 streets, sidewalks and highways under Article 9 of Chapter 136.  
15 The provisions of this subdivision (1) shall not apply to  
16 counties.  
17 (2) Establishing, extending, enlarging, or improving any of the  
18 public enterprises listed in G.S. 160A-311 for cities, or G.S.  
19 153A-274 for counties.

1 (3) Establishing, enlarging, or improving parks, playgrounds,  
2 and other recreational facilities.

3 (4) Establishing, extending, enlarging, or improving storm  
4 sewer and drainage systems and works, or sewer and septic tank  
5 lines and systems.

6 (5) Establishing, enlarging, or improving hospital facilities,  
7 cemeteries, or library facilities.

8 (6) Constructing, enlarging, or improving city halls, fire  
9 stations, office buildings, courthouse jails and other buildings  
10 for use by any department, board, commission or agency.

11 (7) Establishing drainage programs and programs to prevent  
12 obstructions to the natural flow of streams, creeks and natural  
13 water channels or improving drainage facilities. The authority  
14 contained in this subdivision is in addition to any authority  
15 contained in Chapter 156.

16 (8) Acquiring designated historic properties, designated as  
17 such before October 1, 1989, or acquiring a designated landmark  
18 or building structure or site within a historic district,  
19 designated as such on or after October 1, 1989, for which an  
20 application has been made for a certificate of appropriateness  
21 for demolition, in pursuance of the purposes of G.S. 160A-399.3,  
22 Chapter 160A, Article 19, Part 3B, effective until October 1,  
23 1989, or G.S.160A 400.(a), (b), and (c), whichever is  
24 appropriate.

25 (9) Opening, widening, extending, or improving public wharves.

26 The board of education of any municipality or county or a  
27 combined board may exercise the power of eminent domain under  
28 this Chapter for purposes authorized by other statutes.

29 The power of eminent domain shall be exercised by local public  
30 condemnors under the procedures of Article 3 of this Chapter."

31 Sec. 2. This act shall become effective October 1,  
32 1988.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

(THIS IS A DRAFT <sup>89M.F.-13</sup> **DRAFT** AND NOT READY FOR INTRODUCTION)

**FOR REVIEW ONLY**

Short Title: Historic Properties Tax.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING PROPERTY TAX INCENTIVES FOR  
HISTORIC PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278 reads as rewritten:

"§ 105-278. Historic properties.-- (a) Real property (1) designated as a historic structure or site by a local ordinance adopted pursuant to G.S. 160A-399.4; (2) maintained according to standards promulgated by the North Carolina Historic Commission; and (3) protected by easements meeting the definitions contained in the North Carolina Historic Preservation and Conservation Agreements Act, is hereby designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of ~~fifty percent~~ forty percent (40%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287.

(b) The difference between the taxes due on the basis of ~~fifty percent~~ forty percent (40%) of the true value of the

1 property and the taxes that would have been payable in the  
2 absence of the classification provided for in subsection (a)  
3 shall be a lien on the property ~~of the taxpayer~~ as provided in  
4 G.S. 105-355(a) and shall be carried forward in the records of  
5 the taxing unit or units as deferred taxes, but shall not be  
6 payable until the property loses its eligibility for the benefit  
7 of this classification because of (a) a change in an ordinance  
8 designating a historic property; or (b) a change in the property,  
9 except by fire or other natural disaster, which causes its  
10 historical significance to be lost or substantially impaired,  
11 impaired as certified by the State Historic Preservation Officer.  
12 The tax for the fiscal year that opens in the calendar year in  
13 which a disqualification occurs shall be computed as if the  
14 property had not been classified for that year, and taxes for the  
15 preceding three fiscal years that have been deferred as provided  
16 herein shall be payable immediately, together with interest  
17 thereon as provided in G.S. 105-360 for unpaid taxes, which shall  
18 accrue on the deferred taxes as if they had been payable on the  
19 dates on which they originally became due. If only a part of the  
20 historic property loses its eligibility for the classification, a  
21 determination shall be made of the amount of deferred taxes  
22 applicable to that part, and the amount shall be payable with  
23 interest as provided above.

24 (c) Tax benefits accruing to any property by virtue of this  
25 section prior to this amendment shall not be affected by this  
26 amendment."

27 Sec. 2. This act shall become effective for taxable  
28 years beginning on or after January 1, 1989.

29



## HISTORIC PROPERTY EXCLUSION

Fiscal Report  
Fiscal Research Division  
December 8, 1988

### Explanation of Proposal:

The 1977 General Assembly enacted a 50% property tax exclusion for real property designated as a historic structure by a local ordinance. The difference between the taxes computed on the basis of fair market value and the taxable value shall be a lien on the property and shall be carried on the books of local tax assessors as a deferral. The deferred taxes shall be payable when the property loses its eligibility.

The proposal increases the exclusion to 60%.

### Effective Date:

January 1, 1990.

### Fiscal Effect:

There are 33 counties in the state that have a historical commission to certify historic property. In many of these counties, little or no property has been certified. The bulk of the certified properties are in a handful of counties. The estimated statewide reduction in local tax revenue from increasing the exclusion on the properties already receiving an exclusion is \$75,000 per year.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

DRAFT

H

D

89M-DF-12

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Historic Properties Income Tax Credit. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A STATE INCOME TAX CREDIT FOR PRESERVING OR RESTORING HISTORIC PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ G.S. 105-151.3. Credit against personal income tax for the preservation or restoration of historic properties.-- (a) Any person not a dependent of another individual, or any corporation, may claim a credit not exceeding a maximum aggregate of fifteen thousand dollars (\$15,000) in an amount equal to ten percent (10%) of the actual cost of restoring or preserving a property listed in the North Carolina Register of Historic Places, provided that:

(1) the property is certified by the State Historic Preservation Officer to be of individual historic, architectural, or cultural significance, or that it is a contributing building in a historic district; and

1       (2) the taxpayer submitted a plan and specifications  
2       for such restoration or preservation project to the  
3       State Historic Preservation Officer who approved it  
4       prior to its commencement; and

5       (3) the preservation or restoration project when  
6       completed is certified by the State Historic  
7       Preservation Officer to preserve and maintain those  
8       qualities that qualified it for listing in the  
9       North Carolina Register of Historic Places; and

10       (4) upon completion of the project, protective  
11       restrictions meeting the requirements of the North  
12       Carolina Historic Conservation and Preservation  
13       Agreements Act shall have been offered to and  
14       accepted by an organization or public  
15       instrumentality qualified as tax exempt under the  
16       requirements of the §501(c)(3) of the Federal  
17       Internal Revenue Code;

18       (b) A taxpayer may claim the credit provided in this section  
19       for each taxable year in which the project is carried out, but  
20       any unused credit remaining at the end of the year may be carried  
21       forward for an additional four years. The total credit for any  
22       single project shall not exceed fifteen thousand dollars  
23       (\$15,000).

24       (c) Regulations providing for the implementation of this  
25       section shall be promulgated within one year of the date of the  
26       ratification of this Act by the North Carolina Department of  
27       Revenue and the North Carolina Historical Commission, as  
28       appropriate, in accordance with the North Carolina Administrative  
29       Procedure Act."

30       Sec. 2. This act is effective for taxable years  
31 beginning on or after January 1, 1989.

HISTORICAL CREDIT PROPOSAL

Fiscal Report  
Fiscal Research Division  
December 8, 1988

Explanation of Proposal:

Would allow an individual income credit for 10% of the actual cost of restoring or preserving a property listed in the N.C. Register of Historic Places, limited to a cumulative amount of \$15,000 (\$150,000 of costs incurred). To the extent that the credit claimed in a particular year exceeds the taxpayer's liability for that year, a four-year carry-forward is allowed.

Effective Date:

1989 tax year.

Fiscal Effect:

Based on current federal estimates of the cost of federal credits and the relationship of the number of N.C. facilities on the National Register to the U.S. total, a rough estimate of the maximum impact on state General Fund tax revenue is \$3.0 million. The \$15,000 credit limit could reduce the cost from this level.

Additional Information:

Federal tax law allows a 10% investment tax credit for the rehabilitation of pre-1936 nonresidential buildings and a 20% credit for rehabilitating certified historic structures used either for residential or nonresidential purposes.

The passive loss restriction rules contained in the Tax Reform Act of 1986 have had a substantial negative impact on historic rehab activity.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

DRAFT

D

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Neighborhood Preservation Programs. (Public)

Sponsors: Representative Colton.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENABLE CITIES, TOWNS AND COUNTIES TO PROVIDE FOR  
3 NEIGHBORHOOD, COMMUNITY AND RURAL PRESERVATION.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Article 19 of Chapter 160A of the General  
6 Statutes is amended by adding the following new Part:  
7 "PART 9.  
8 "Districts for Neighborhood, Community, and Rural  
9 Preservations.  
10 § 160A-459.1. Membership and appointment of commission; joint  
11 commission.--(a) Each city and county in the State may create a  
12 special commission, to be known as the community conservation  
13 district commission for the city or county. The commission shall  
14 consist of not less than three members, to be appointed by the  
15 governing body of the municipality or county for such terms, not  
16 to exceed four years, as the governing body may by ordinance  
17 provide. All members shall be residents of the city's or  
18 county's area of planning or zoning jurisdiction at the time of  
19 appointment. Where possible, appointments shall be made in such

1 a manner as to maintain on the commission at all times at least  
2 two members who have had special training or experience in a  
3 design field, such as architecture, landscape design, landscape  
4 architecture, horticulture, city planning, or a related field.  
5 Membership on the commission is declared to be an office that may  
6 be held concurrently with any other elective or appointive office  
7 pursuant to Article VI, Section 9, of the North Carolina  
8 Constitution.

9 (b) A county and one or more cities in the county may  
10 establish a joint community conservation district commission. If  
11 a joint commission is established, the county and the city or  
12 cities involved shall determine the residence requirements of the  
13 joint commission.

14 (c) In lieu of establishing a separate community conservation  
15 district commission, a city or county may designate as its  
16 community conservation district commission either (1) the city or  
17 county preservation commission, established pursuant to Part 3 of  
18 Chapter 160A of the General Statutes, or (2) a city or county  
19 planning agency, or (3) the governing body of the municipality or  
20 county, or (4) the city or county appearance commission.

21 "§ 160A-459.2. Community conservation district defined.--A  
22 community conservation district is an area that possesses form,  
23 character, and visual qualities derived from arrangements or  
24 combinations of topography, vegetation, space, scenic vistas,  
25 architecture, appurtenant features, distinctive natural habitats,  
26 natural formations, or places of natural or cultural  
27 significance, that create an image of stability, comfort, local  
28 identity, and livable atmosphere.

29 "§ 160A-459.3. Powers and duties of commission.--The governing  
30 body may confer upon the community conservation districts  
31 commission any or all of the following duties and powers:

32 (1) To undertake an inventory of areas of scenic, cultural and  
33 natural significance within the jurisdiction of the municipality  
34 or county to identify for all public officials and public bodies



1 those characteristics which define significant areas within the  
2 jurisdiction;

3 (2) To recommend to the governing body areas to be designated  
4 or removed from designation by ordinance as 'Conservation  
5 Districts';

6 (3) To conduct an educational program with respect to the  
7 special character of conservation districts;

8 (4) To prepare studies and plans for consideration by  
9 governing bodies in taking action that affects the conservation  
10 and enhancement of such districts. Such studies and plans shall  
11 consider, but not be limited to, beautification, landscaping,  
12 acquisition of easements, streetscapes, and capital improvements;

13 (5) To recommend to the governing body such action as will  
14 enhance and conserve the special character of conservation  
15 districts;

16 (6) To cooperate with public and private officials,  
17 organizations, agencies, and groups which are concerned with and  
18 have an impact upon conservation districts;

19 (7) To cooperate with State, federal and local governments in  
20 pursuance of the purposes of this Part. The governing body or  
21 the commission, when authorized by the governing body, may  
22 contract with the State, or with the United States of America, or  
23 any agency of either, or with any other public or private  
24 organization provided the terms are not inconsistent with State  
25 or federal law;

26 (8) To submit annually to the governing body a written report  
27 of its activities; to identify activities, including violations  
28 of ordinances and plans that affect the district; and, at the  
29 request of the deliberating or issuing authority or officials, to  
30 review and comment on plans, proposals, and applications that  
31 affect the districts. All accounts and funds of the commission  
32 shall be administered in accordance with the requirements of the  
33 Local Government Budget and Fiscal Control Act.

34 "§ 160A-459.4. Required procedures.--As a guide for the  
35 identification and evaluation of community conservation district,

1 the commission shall undertake an inventory of those areas within  
2 its jurisdiction that exhibit scenic, cultural, and natural  
3 qualities and which may qualify as conservation districts as  
4 defined in G.S. 160A-459.2. No resolution designating a  
5 community conservation district shall be adopted by the governing  
6 body until the following procedural steps have been taken:

7 (1) The community conservation districts commission shall  
8 prepare and adopt rules of procedure not inconsistent with this  
9 Part.

10 (2) The commission shall investigate and prepare a report on  
11 the special scenic, natural, and cultural qualities of the area  
12 to be designated.

13 (3) The commission and the governing body shall hold a public  
14 hearing on the proposed ordinance(s) designating community  
15 conservation districts. Reasonable notice of the time and place  
16 thereof shall be given. All meetings of the commission shall be  
17 open to the public, in accordance with the Open Meetings Law,  
18 G.S. Chapter 143, Article 33C.

19 (4) Following the joint public hearing, the governing body may  
20 adopt the resolution as proposed, adopt it with any amendments it  
21 deems necessary, or reject it.

22 (5) Following adoption of the resolution, the designation of  
23 the community conservation district shall be publicized through  
24 an appropriate publication(s) and public awareness programs.

25 (6) Notification of all areas duly designated shall be  
26 forwarded to the Department of Cultural Resources (Division of  
27 Archives and History) and the Department of Natural Resources and  
28 Community Development, showing the inventory, report, and a map  
29 of the boundaries for the purpose of educating the citizens of  
30 North Carolina to the scenic, cultural and natural resources of  
31 the State. The boundaries or geographical data shall give the  
32 acreage of the area, USGS quadrangle reference and UTM reference  
33 (Universal Transverse Mercator)."

34 Sec. 2. This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-16

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Archaeologist Law Change.

(Public)

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Sponsors: .

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Referred to:

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1 A BILL TO BE ENTITLED

2 AN ACT TO STRENGTHEN THE LAW PROTECTIONG ARCHAEOLOGICAL RESOURCES  
3 AND TO MAKE TECHNICAL CHANGES.

4 The General Assembly of North Carolina enacts:

5 Section 1. The Title of Chapter 70 of the General  
6 Statutes reads as rewritten:

7 "Chapter 70

8 ~~"Indian Antiquities, Archaeological Resources, and Unmarked Human~~  
9 ~~Skeletal Remains Protection Archaeological Resources Protection."~~

10 Sec. 2. G.S.70-15(c) reads as rewritten:

11 "(c) Any person who knowingly and willfully violated or employs  
12 any other person to violate any prohibition contained in  
13 G.S.70-15(a) or G.S.70-15(b) ~~shall upon conviction, be fined not~~  
14 ~~more than two thousand dollars (\$2,000) or imprisoned not more~~  
15 ~~than six months, or both, in the discretion of the court is~~  
16 guilty of a Class H felony."

17 Sec. 32. Article 2 of Chapter 70 of the General Statutes  
18 is amended by adding new sections to read:

1    "§ 70-21. Cooperation with other State agencies.--Heads of  
2 agencies controlling State land shall report violations of this  
3 Article to the Department of Cultural Resources and to the State  
4 Bureau of Investigation, pursuant to G.S.114-15.1.

5    "§ 70-22. Law-enforcement agencies empowered to assist  
6 Department.-- All law-enforcement agencies and officers, State  
7 and local, are empowered to assist the Department of Cultural  
8 Resources in carrying out its duties under this Article."

9           Sec. 4. Article 3 of Chapter 70 of the General Statutes  
10 reads as rewritten:

11                         "ARTICLE 3

12    "Unmarked Human Burial and Human Skeletal Remains Protection  
13 Act.

14    "§ 70-26. Short title.-- This Article shall be known as "The  
15 Unmarked Human Burial and Human Skeletal Remains Protection Act."

16    §70-27. Findings and purpose.

17    (a) The General Assembly finds that:

18           (1)    Unmarked human burials and human skeletal remains  
19                   are subject to vandalism and inadvertent  
20                   destruction at an ever- increasing rate;

21           (2)    Existing State laws do not provide adequate  
22                   protection to prevent damage to and destruction of  
23                   these remains;

24           (3)    There is a great deal of scientific information to  
25                   be gained from the proper excavation, study and  
26                   analysis of human skeletal remains recovered from  
27                   such burials; and

28           (4)    There has been no procedure for descendants or  
29                   other interested individuals to make known their  
30                   concerns regarding disposition of these remains.

31    (b) The purpose of this Article is (i) to provide adequate  
32 protection from vandalism for unmarked human burials and human  
33 skeletal remains, (ii) to provide adequate protection for  
34 unmarked human burials and human skeletal remains not within the  
35 jurisdiction of the medical examiner pursuant to G.S. 130-198

1 that are encountered during archaeological excavation,  
2 construction, or other ground disturbing activities, found  
3 anywhere within the State except on federal land, and (iii) to  
4 provide for adequate skeletal analysis of remains removed or  
5 excavated from unmarked human burials if the analysis would  
6 result in valuable scientific information.

7

8 **"§70-28. Definitions.--**As used in this Article:

9 (1) 'Chief State Archaeologist' means the Chief State  
10 Archaeologist, Archaeology Branch, Archaeology and  
11 Historic Preservation Section, Division of Archives  
12 and History, Department of Cultural Resources.

13 (2) 'Executive Director' means the Executive Director  
14 of the North Carolina Commission of Indian Affairs.

15 (3) 'Human skeletal remains' or 'remains' means any  
16 part of the body of a deceased human being in any  
17 stage of decomposition.

18 (4) 'Professional archaeologist' means a person having  
19 (i) a postgraduate degree in archaeology,  
20 anthropology, history, or another related field  
21 with a specialization in archaeology, (ii) a  
22 minimum of one year's experience in conducting  
23 basic archaeological field research, including the  
24 excavation and removal of human skeletal remains,  
25 and (iii) designed and executed an archaeological  
26 study and presented the written results and  
27 interpretations of such study.

28 (5) 'Skeletal analyst' means any person having (i) a  
29 postgraduate degree in a field involving the study  
30 of the human skeleton such as skeletal biology,  
31 forensic osteology or other relevant aspects of  
32 physical anthropology or medicine, (ii) a minimum  
33 of one year's experience in conducting laboratory  
34 reconstruction and analysis of skeletal remains,  
35 including the differentiation of the physical

characteristics denoting cultural or biological affinity, and (iii) designed and executed a skeletal analysis, and presented the written results and interpretations of such analysis.

- (6) 'Unmarked human burial' means any interment of human skeletal remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

10

11     **"§70-29. Discovery of remains and notification of**  
12 **authorities.--**(a) Any person knowing or having reasonable grounds  
13 to believe that unmarked human burials or human skeletal remains  
14 are being disturbed, destroyed, defaced, mutilated, removed, or  
15 exposed, shall notify immediately the medical examiner of the  
16 county in which the remains are encountered.

17     (b) If the unmarked human burials or human skeletal remains are  
18 encountered as a result of construction or agricultural  
19 activities, disturbance of the remains shall cease immediately  
20 and shall not resume without authorization from either the county  
21 medical examiner or the ~~Chief~~ State Archaeologist, under the  
22 provisions of G.S. 70-30(c) or 70-30(d).

23     (c)       (1) If the unmarked human burials or human skeletal  
24 remains are encountered by a professional  
25 archaeologist, as a result of survey or test  
26 excavations, the remains may be excavated and other  
27 activities may resume after notification, by  
28 telephone or registered letter, is provided to the  
29 ~~Chief~~ State Archaeologist. The treatment, analysis  
30 and disposition of the remains shall come under the  
31 provisions of G.S. 70- 34 and 70-35.

32       (2) If a professional archaeologist directing  
33 long-term(research designed to continue for one or  
34 more field seasons of four or more weeks' duration)  
35 systematic archaeological research sponsored by any

1           accredited college or university in North Carolina,  
2           as a part of his research, recovers Native American  
3           skeletal remains, he may be exempted from the  
4           provisions of G.S. 70-30, 70-31, 70-32, 70-33,  
5           70-34 and 70-35(c) of this Article so long as he:

6           a. Notifies the Executive Director within five  
7           working days of the initial discovery of  
8           Native American skeletal remains;

9           b. Reports to the Executive Director, at  
10          agreed upon intervals, the status of the  
11          project;

12          c. Curates the skeletal remains prior to  
13          ultimate disposition; and

14          d. Conducts no destructive skeletal analysis  
15          without the express permission of the  
16          Executive Director.

17    Upon completion of the project fieldwork, the professional  
18    archaeologist, in consultation with the skeletal analyst and the  
19    Executive Director, shall determine the schedule for the  
20    completion of the skeletal analysis. In the event of a  
21    disagreement, the time for completion of the skeletal analysis  
22    shall not exceed four years. The Executive Director shall have  
23    authority concerning the ultimate disposition of the Native  
24    American skeletal remains after analysis is completed in  
25    accordance with G.S. 70-35(a) and 70-36(b) and (c).

26    (d) The ~~Chief~~ State Archaeologist shall notify the Chief,  
27    Medical Examiner Section, Division of Health Services, Department  
28    of Human Resources, of any reported human skeletal remains  
29    discovered by a professional archaeologist.

30

31    "**§70-30. Jurisdiction over remains.**--(a) Subsequent to  
32    notification of the discovery of an unmarked human burial or  
33    human skeletal remains, the medical examiner of the county in  
34    which the remains were encountered shall determine as soon as

1 possible whether the remains are subject to the provisions of  
2 G.S. 130-198.

3 (b) If the county medical examiner determines that the remains  
4 are subject to the provisions of G.S. 130-198, he will  
5 immediately proceed with his investigation.

6 (c) If the county medical examiner determines that the remains  
7 are not subject to the provisions of G.S. 130-198, he shall so  
8 notify the Chief Medical Examiner. The Chief Medical Examiner  
9 shall notify the Chief State Archaeologist of the discovery of  
10 the human skeletal remains and the findings of the county medical  
11 examiner. The Chief State Archaeologist shall immediately take  
12 charge of the remains.

13 (d) Subsequent to taking charge of the human skeletal remains,  
14 the Chief State Archaeologist shall have 48 hours to make  
15 arrangements with the landowner for the protection or removal of  
16 the unmarked human burial or human skeletal remains. The Chief  
17 State Archaeologist shall have no authority over the remains at  
18 the end of the 48-hour period and may not prohibit the resumption  
19 of the construction or agricultural activities without the  
20 permission of the landowner.

21

22 "§70-31. Archaeological investigation of human skeletal  
23 remains.--(a) If an agreement is reached with the landowner for  
24 the excavation of the human skeletal remains, the Chief State  
25 Archaeologist shall either designate a member of his staff or  
26 authorize another professional archaeologist to excavate or  
27 supervise the excavation.

28 (b) The professional archaeologist excavating human skeletal  
29 remains shall report to the Chief State Archaeologist, either in  
30 writing or by telephone, his opinion on the cultural and  
31 biological characteristics of the remains. This report shall be  
32 transmitted as soon as possible after the commencement of  
33 excavation, but no later than two full business days after the  
34 removal of a burial.



1 (c) The ~~Chief~~ State Archaeologist, in consultation with the  
2 professional archaeologist excavating the remains, shall  
3 determine where the remains shall be held subsequent to  
4 excavation, pending other arrangements according to G.S. 70-32 or  
5 70-33.

6 (d) The Department of Cultural Resources may obtain  
7 administrative inspection warrants pursuant to the provisions of  
8 Chapter 15, Article 4A of the General Statutes to enforce the  
9 provisions of this Article, provided that prior to the requesting  
10 of the administrative warrant, the Department shall contact the  
11 affected landowners and request their consent for access to their  
12 land for the purpose of gathering such information. If consent is  
13 not granted, the Department shall give reasonable notice of the  
14 time, place and before whom the administrative warrant will be  
15 requested so that the owner or owners may have an opportunity to  
16 be heard.

17

18 " §70-32. Consultation with the Native American Community.--

19 (a) If the professional archaeologist determines that the human  
20 skeletal remains are Native American, the ~~Chief~~ State  
21 Archaeologist shall immediately notify the Executive Director of  
22 the North Carolina Commission of Indian Affairs. The Executive  
23 Director shall notify and consult with the Eastern Band of  
24 Cherokee or other appropriate tribal group or community.

25 (b) Within four weeks of the notification, the Executive  
26 Director shall communicate in writing to the ~~Chief~~ State  
27 Archaeologist, the concerns of the Commission of Indian Affairs  
28 and an appropriate tribal group or community with regard to the  
29 treatment and ultimate disposition of the Native American  
30 skeletal remains.

31 (c) Within 90 days of receipt of the concerns of the Commission  
32 of Indian Affairs, the ~~Chief~~ State Archaeologist and the  
33 Executive Director, with the approval of the principal tribal  
34 official of an appropriate tribe, shall prepare a written  
35 agreement concerning the treatment and ultimate disposition of

1 the Native American skeletal remains. The written agreement shall  
2 include the following:

- 3           (1) Designation of a qualified skeletal analyst to  
4           work on the skeletal remains;
- 5           (2) The type of analysis and the specific period of  
6           time to be provided for analysis of the skeletal  
7           remains;
- 8           (3) The timetable for written progress reports and the  
9           final report concerning the skeletal analysis to be  
10          provided to the Chief State Archaeologist and the  
11          Executive Director by the skeletal analyst; and
- 12          (4) A plan for the ultimate disposition of the Native  
13          American remains subsequent to the completion of  
14          adequate skeletal analysis.

15 If no agreement is reached within 90 days, the Archaeological  
16 Advisory Committee shall determine the terms of the agreement.

17 **"§70-33. Consultation with other individuals.--**

18 (a) If the professional archaeologist determines that the human  
19 skeletal remains are other than Native American, the Chief State  
20 Archaeologist shall publish notice that excavation of the remains  
21 has occurred, at least once per week for four successive weeks in  
22 a newspaper of general circulation in the county where the  
23 burials or skeletal remains were situated, in an effort to  
24 determine the identity or next of kin or both of the deceased.

25 (b) If the next of kin are located, within 90 days the Chief  
26 State Archaeologist in consultation with the next of kin shall  
27 prepare a written agreement concerning the treatment and ultimate  
28 disposition of the skeletal remains. The written agreement shall  
29 include:

- 30           (1) Designation of a qualified skeletal analyst to  
31           work on the skeletal remains;
- 32           (2) The type of analysis and the specific period of  
33           time to be provided for analysis of the skeletal  
34           remains;

(3) The timetable for written progress reports and the final report concerning the skeletal analysis to be provided to the Chief State Archaeologist and the next of kin by the skeletal analyst; and

(4) A plan for the ultimate disposition of the skeletal remains subsequent to the completion of adequate skeletal analysis.

If no agreement is reached, the remains shall be handled according to the wishes of the next of kin.

**"§70-34. Skeletal analysis.--**(a) Skeletal analysis conducted under the provisions of this Article shall only be accomplished by persons having those qualifications expressed in G.S. 70-28(5).

(b) Prior to the execution of the written agreements outlined in G.S. 70-32(c) and 70-33(b), the Chief State Archaeologist shall consult with both the professional archaeologist and the skeletal analyst investigating the remains.

(c) The professional archaeologist and the skeletal analyst shall submit a proposal to the Chief State Archaeologist within the 90-day period set forth in G.S. 70-32(c) and 70-33(b), including:

(1) Methodology and techniques to be utilized;

(2) Research objectives;

(3) Proposed time schedule for completion of the analysis; and

(4) Proposed time intervals for written progress reports and the final report to be submitted.

(d) If the terms of the written agreement are not substantially met, the Executive Director or the next of kin, after consultation with the Chief State Archaeologist, may take possession of the skeletal remains. In such case, the Chief State Archaeologist may ensure that appropriate skeletal analysis is conducted by another qualified skeletal analyst prior to ultimate disposition of the skeletal remains.

1

2 "§70-35. Disposition of human skeletal remains.--(a) If the  
3 skeletal remains are Native American, the Executive Director,  
4 after consultation with an appropriate tribal group or community,  
5 shall determine the ultimate disposition of the remains after the  
6 analysis.

7 (b) If the skeletal remains are other than Native American and  
8 the next of kin have been identified, the next of kin shall have  
9 authority concerning the ultimate disposition of the remains  
10 after the analysis.

11 (c) If the Chief State Archaeologist has received no  
12 information or communication concerning the identity or next of  
13 kin of the deceased, the skeletal remains shall be transferred  
14 to the Chief State Archaeologist and permanently curated  
15 according to standard museum procedures after adequate skeletal  
16 analysis.

17

18 " §70-36. Financial responsibility.--(a) The provisions of this  
19 Article shall not require that the owner of the land on which the  
20 unmarked human burials or human skeletal remains are found, bear  
21 the cost of excavation, removal, analysis or disposition.

22 (b) If a determination is made by the Executive Director, in  
23 consultation with an appropriate tribal group or community, that  
24 Native American skeletal remains shall be reinterred following  
25 the completion of skeletal analysis, an appropriate tribal group  
26 or community may provide a suitable burial location. If it elects  
27 not to do so, it shall be the responsibility of the North  
28 Carolina Commission of Indian Affairs to provide a suitable  
29 burial location.

30 (c) The expense of transportation of Native American remains to  
31 the reburial location shall be borne by the party conducting the  
32 excavation and removal of the skeletal remains. The reburial  
33 ceremony may be provided by an appropriate tribal group or  
34 community. If it elects not to do so, the reburial ceremony shall  
35 be the responsibility of the Commission of Indian Affairs.

1

2 " §70-37. Prohibited acts.--(a) No person, unless acting under  
3 the provisions of G.S. 130-198 through G.S. 130-201, shall:

4 (1) Knowingly acquire any human skeletal remains  
5 removed from unmarked burials in North Carolina  
6 after October 1, 1981, except in accordance with  
7 the provisions of this Article;

8 (2) Knowingly exhibit or sell any human skeletal  
9 remains acquired from unmarked burials in North  
10 Carolina; or

11 (3) Knowingly retain human skeletal remains acquired  
12 from unmarked burials in North Carolina after  
13 October 1, 1981, for scientific analysis beyond a  
14 period of time provided for such analysis pursuant  
15 to the provisions of G.S. 70-32, 70-33 and 70-34,  
16 with the exception of those skeletal remains  
17 curated under the provisions of G.S. 70-35.

18 (b) Other provisions of criminal law concerning vandalism of  
19 unmarked human burials or human skeletal remains may be found in  
20 G.S. 14-149.

21

22 " §70-38. Rule-making authority.--The North Carolina Historical  
23 Commission may promulgate rules and regulations to implement the  
24 provisions of this Article.

25

26 "§70-39. Exceptions.--(a) Human skeletal remains acquired from  
27 commercial biological supply houses or through medical means are  
28 not subject to the provisions of G.S. 70-37(a).

29 (b) Human skeletal remains determined to be within the  
30 jurisdiction of the medical examiner according to the provisions  
31 of G.S. 130-198 are not subject to the prohibitions contained in  
32 this Article.

33

34 " §70-40. Penalties.--(a) Violation of the provisions of G.S.  
35 70-29 is a misdemeanor.

1 (b) Violation of the provisions of G.S. 70-37(a) is a Class H  
2 felony.

3 " §70-41. Forfeiture.-- All archaeological resources with  
4 respect to which a violation of the provisions of this Article  
5 occurred, and all vehicles and equipment that were used in  
6 connection with this violation are subject to forfeiture to the  
7 State in the same manner as are vehicles and equipment pursuant  
8 to G.S.90-112.

9 " §70-42. Law-enforcement agencies empowered to assist  
10 Department.-- All law-enforcement agencies and officers, State  
11 and local, are empowered to assist the Department of Cultural  
12 Resources in carrying out its duties under this Article."

13 Sec. 5. G.S.121-28 reads as rewritten:

14 "~~§ 121-28. Violation of Article a misdemeanor Penalties.--(a)~~  
15 Any person violating the provisions of this Article or any rules  
16 ~~or regulations established thereunder shall be guilty of a~~  
17 ~~misdemeanor and upon conviction shall be punished as in cases of~~  
18 ~~misdemeanor is guilty of a Class H felony.~~

19 (b) Each day on which a violation occurs constitutes  
20 occasion of a separate and distinct offense."

21 Sec. 6. Chapter 121 of the General Statutes is amended  
22 by adding a new section to read:

23 "§ 121-29. Forfeiture.--All archaeological resources with  
24 respect to which a violation of the provisions of this Article  
25 occurred, and all vehicles and equipment that were used in  
26 connection with this violation are subject to forfeiture to the  
27 State in the same manner as vehicles and equipment subject to  
28 forfeiture under G.S. 90-112."

29 Sec. 7. G.S. 143B-62 reads as rewritten:

30 "143B-62. North Carolina Historical Commission -- creation,  
31 powers and duties.

32 There is hereby created the North Carolina Historical  
33 Commission of the Department of Cultural Resources to give advice  
34 and assistance to the Secretary of Cultural Resources and to  
35 promulgate rules and regulations to be followed in the

1 acquisition, disposition, preservation, and use of records,  
2 artifacts, real and personal property, and other materials and  
3 properties of historical, archaeological, architectural, or other  
4 cultural value, and in the extension of State aid to other  
5 agencies, counties, municipalities, organizations, and  
6 individuals in the interest of historic preservation.

7 (1) The Historical Commission shall have the following powers  
8 and duties:

9 a. To advise the Secretary of Cultural Resources on the  
10 scholarly editing, writing, and publication of historical  
11 materials to be issued under the name of the Department;

12 b. To evaluate and approve proposed nominations of historic,  
13 archaeological, architectural, or cultural properties for entry  
14 on the National Register of Historic Places;

15 c. To evaluate and approve the State plan for historic  
16 preservation as provided for in Chapter 121;

17 d. To evaluate and approve historic, archaeological,  
18 architectural, or cultural properties proposed to be acquired and  
19 administered by the State;

20 e. To evaluate and prepare a report on its findings and  
21 recommendations concerning any property not owned by the State  
22 for which State aid or appropriations are requested from the  
23 Department of Cultural Resources, and to submit its findings and  
24 recommendations in accordance with Chapter 121;

25 f. To serve as an advisory and coordinative mechanism in and by  
26 which State undertakings of every kind that are potentially  
27 harmful to the cause of historic preservation within the State  
28 may be discussed, and where possible, resolved, particularly by  
29 evaluating and making recommendations concerning any State  
30 undertaking which may affect a property that has been entered on  
31 the National Register of Historic Places as provided for in  
32 Chapter 121 of the General Statutes of North Carolina;

33 g. To exercise any other powers granted to the Commission by  
34 provisions of Chapter 121 of the General Statutes of North  
35 Carolina;

1 h. To give its professional advice and assistance to the  
2 Secretary of Cultural Resources on any matter which the Secretary  
3 may refer to it in the performance of the Department's duties and  
4 responsibilities provided for in Chapter 121 of the General  
5 Statutes of North Carolina;

6 i. To serve as a search committee to seek out, interview, and  
7 recommend to the Secretary of Cultural Resources one or more  
8 experienced and professionally trained historian(s) for the  
9 position of Director of the Division of Archives and History when  
10 a vacancy occurs, and to assist and cooperate with the Secretary  
11 in periodic reviews of the performance of the Director and the  
12 Division; and

13 j. To assist and advise the Secretary of Cultural Resources and  
14 the Director of the Division of Archives and History in the  
15 development and implementation of plans and priorities for the  
16 State's historical programs ; and

17 k. To review existing statutes relating to archaeological  
18 resources, to make recommendations to the General Assembly  
19 concerning programs and statutes, to advise the Department on the  
20 development of its archaeological program and to determine the  
21 terms of agreements under G.S.70-32 in cases in which the  
22 executive director of the Commission of Indian Affairs and the  
23 State Archaeologist cannot reach an agreement within 90 days, in  
24 cases involving disposition of human skeletal remains. .

25 (2) The Historical Commission shall have the power and duty to  
26 establish standards and provide rules and regulations as follows:

27 a. For the acquisition and use of historical materials suitable  
28 for acceptance in the North Carolina State Archives or the North  
29 Carolina Museum of History;

30 b. For the disposition of public records under provisions of  
31 Chapter 121 of the General Statutes of North Carolina; and

32 c. For the certification of records in the North Carolina State  
33 Archives as provided in Chapter 121 of the General Statutes of  
34 North Carolina;



1 d. For the use by the public of historic, architectural,  
2 archaeological, or cultural properties as provided in Chapter 121  
3 of the General Statutes of North Carolina;

4 e. For the acquisition of historic, archaeological,  
5 architectural, or cultural properties by the State;

6 f. For the extension of State aid or appropriations through the  
7 Department of Cultural Resources to counties, municipalities,  
8 organizations, or individuals for the purpose of historic  
9 preservation or restoration; and

10 fl. For the extension of State aid or appropriations through  
11 the Department of Cultural Resources to nonstate-owned nonprofit  
12 history museums;

13 g. For qualification for grants-in-aid or other assistance from  
14 the federal government for historic preservation or restoration  
15 as provided in Chapter 121 of the General Statutes of North  
16 Carolina. This section shall be construed liberally in order that  
17 the State and its citizens may benefit from such grants-in-aid.

18 (3) The Commission shall adopt rules and regulations consistent  
19 with the provisions of this section. All current rules and  
20 regulations heretofore adopted by the Executive Board of the  
21 State Department of Archives and History, the Historic Sites  
22 Advisory Committee, the North Carolina Advisory Council on  
23 Historical Preservation, the Executive Mansion Fine Arts  
24 Commission, and the Memorials Commission shall remain in full  
25 force and effect unless and until repealed or superseded by  
26 action of the Historical Commission. All rules and regulations  
27 adopted by the Commission shall be enforced by the Department of  
28 Cultural Resources."

29 Sec. 8. This act is effective upon ratification.

30

31 t



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

DRAFT  
89-665  
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)  
FOR REVIEW ONLY

Short Title: Historic Property Survey Change.

(Public)

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Sponsors: .

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CHANGES IN THE LAW REGARDING SURVEYS OF  
3 HISTORIC PROPERTIES.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S.121-8(b) reads as rewritten:  
6 " (b) Surveys of Historic Properties. -- The Department of  
7 Cultural Resources shall conduct a continuing statewide survey to  
8 identify, document, and record properties having historical,  
9 architectural, archaeological, or other cultural significance to  
10 the State, its communities, and the nation. Upon approval of the  
11 North Carolina Historical Commission, the ~~Secretary~~ Director of  
12 the Division of Archives and History or his designee as the  
13 ~~State's liaison officer for historic preservation~~ State Historic  
14 Preservation Officer, may nominate appropriate properties for  
15 entry in the National Register of Historic Places as established  
16 by the National Historic Preservation Act of 1966, Public Law  
17 89-665, 16 U.S.C. section 470. The Department of Cultural  
18 Resources shall maintain a permanent file containing research  
19 reports, descriptions, photographs, and other appropriate

1 documentation relating to properties deemed worthy of inclusion  
2 in the statewide survey."

3           Sec. 2. This act is effective upon ratification.

4







